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Vol. I

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, ~~1929~~ 1930

No. ~~498~~ 16

THE STATE OF FLORIDA AND A. S. WELLS, E. S. MATTHEWS, ET AL., ETC., APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~494~~ 17

BROOKS-SCANLON CORPORATION, WILSON CYPRESS COMPANY, CUMMER CYPRESS COMPANY, APPELLANTS,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

No. ~~495~~ 18

WILSON LUMBER COMPANY OF FLORIDA, APPELLANT,

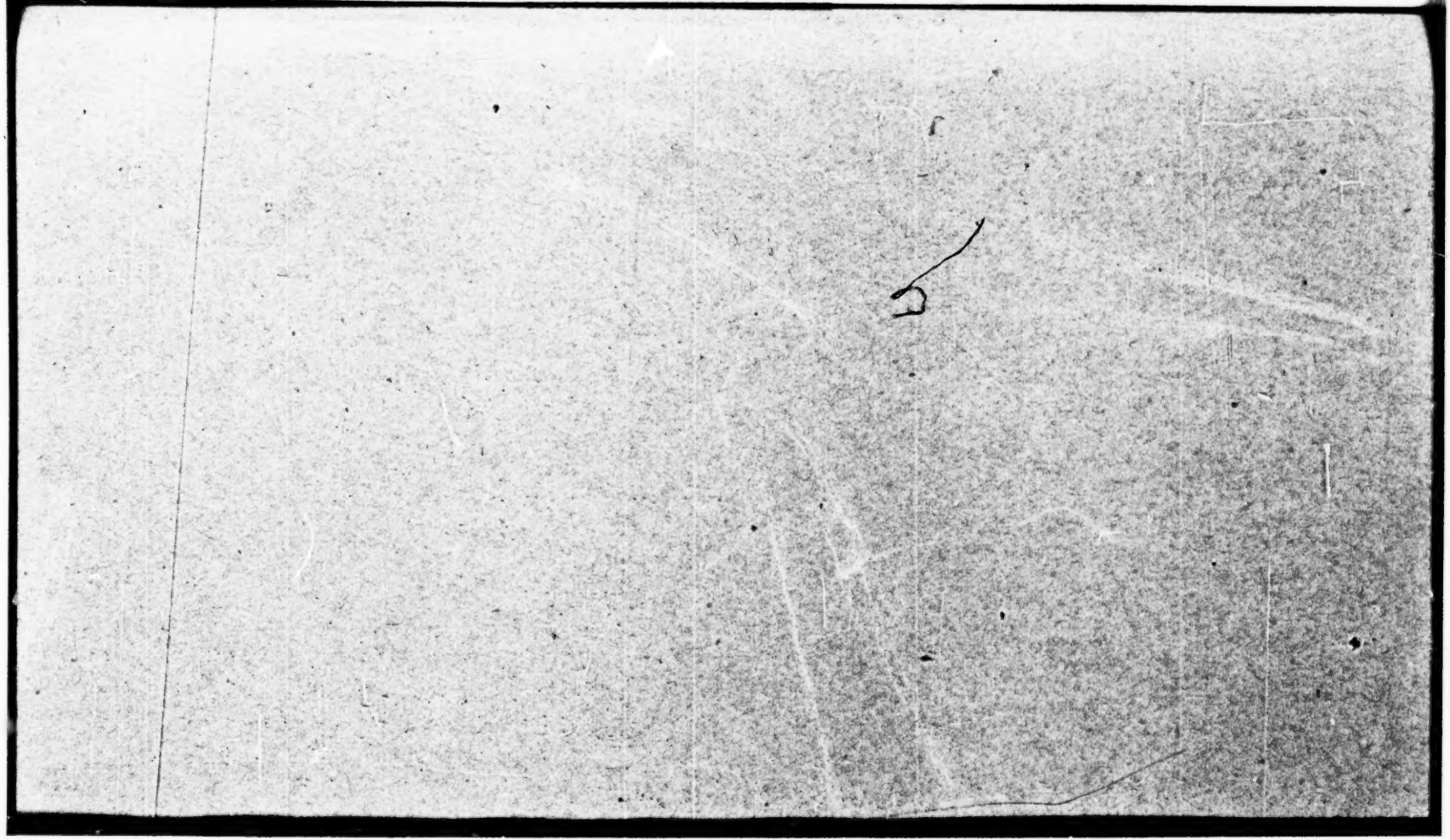
vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA

FILED NOVEMBER 27, 1929

(34,624, 34,625, 34,626)



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[fol. 1] [Caption omitted]

[fol. 2]

IN UNITED STATES DISTRICT COURT, DISTRICT OF GEORGIA, ATLANTA DIVISION

In Equity. No. 514

STATE OF FLORIDA and A. S. WELLS, E. S. MATHEWS, and Mamie G. Eaton, as and Constituting Florida Railroad Commission, Petitioners,

v.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, Defendants

BILL OF COMPLAINT—Filed Nov. 27, 1928

To the Honorable the Judges of the District Court in and for the Northern District of Georgia, Atlanta Division:

The State of Florida, by Fred. H. Davis, its Attorney General, and A. S. Wells, E. S. Mathews, and Mamie C. Eaton, as and constituting Florida Railroad Commission, bring this their bill of complaint against the United States of America and Interstate Commerce Commission, and thereupon respectfully show as follows:

I

That the petitioners, A. S. Wells, E. S. Mathews, and Mamie G. Eaton are the duly elected, qualified and acting Railroad Commissioners of the State of Florida; that as such they are authorized and empowered to investigate and [fol. 3] determine reasonable rates and charges for transportation service performed by railroads as common carriers in the State of Florida and are authorized to bring and maintain suits before any of the Courts of the State of Florida and of the United States for and on behalf of the State of Florida respecting any rates or charges fixed, determined, or authorized by them as well as before the Interstate Commerce Commission or the United States.

That the State of Florida is represented in this proceeding by Fred. H. Davis, who is the duly authorized, qualified and acting Attorney General of the State of Florida and who brings this suit in its behalf and by its authority in his capacity as such Attorney General.

II

The defendant United States of America is made such by virtue of an act of Congress known as the Commerce Court Act, (36 Stat. L., 539) and District Court Jurisdiction Act, (38 Stat. L. 219). The defendant Interstate Commerce Commission is an administrative tribunal created by Act of Congress, February 4, 1887, and whose duties and powers are defined in such act and amendments thereto and supplements thereof.

III

The Georgia Public Service Commission is an administrative tribunal created and existing by authority of law under the constitution and statutes of the State of Georgia, having its official residence in the City of Atlanta, which is in the northern district of Georgia, and so within the jurisdiction of this Court.

IV

The Atlantic Coast Line Railroad Company owns and operates various lines of railway in the States of Georgia [fol. 4] and Florida, including lines from timber areas to the lumber mills located at Eastport, Lacooche, Jacksonville and Palatka, Florida. Over such lines of railway the Atlantic Coast Line transports for shipment wholly within the State of Florida, many carloads of logs. To the lumber mills above referred to the hauls of logs by railroad over the Atlantic Coast Line from these timber areas are all within one hundred and seventy (170) miles.

For the transportation of such logs wholly within the State of Florida as aforesaid, the Atlantic Coast Line Railroad Company voluntarily established and has continued in effect, and now charges and (if lawful so to do) is willing to continue to charge a certain mileage scale of rates known as the "Cummer scale", which, for the varying

distances up to 170 miles, provides varying rates "per car of 50,000 pounds, excess in proportion, to be loaded and unloaded by owner and not to be unloaded on the railroad's right of way."

The Atlantic Coast Line Railroad Company also has published and filed with the Interstate Commerce Commission certain rates which would be applicable to any movement of logs over its line from Florida origins to Georgia destinations which such rates are higher in amount for like distances than the so-called "Cummer scale" applicable for the certain distances and under certain conditions between points in Florida as above described.

V

On or about to-wit, May 3, 1926, said Georgia Public Service Commission, in its own name, filed with the Interstate Commerce Commission a certain complaint against the Atlantic Coast Line Railroad Company. In such complaint it was alleged that the rates of freight on logs published by the Atlantic Coast Line Railroad as applicable to shipments of such commodity from origins on its line in Florida to destinations on its line in Georgia then were and [fol. 5] thereafter would be unjust and unreasonable in violation of the provisions of Section 1 of the Interstate Commerce Act. It was further alleged in such complaint that the contemporaneous publication of such interstate and intrastate rates above described constituted and thereafter would constitute undue prejudice and disadvantage to Georgia Lumber manufacturers and Georgia communities and unjust discrimination against interstate commerce to the undue preference and advantage of shippers of logs between points in Florida in violation of the provisions of Sections 3 and 13 of the interstate commerce act.

VI

Thereupon such complaint was served by the Interstate Commerce Commission upon the Atlantic Coast Line Railroad Company, which, thereafter, and in due course, filed with the Interstate Commerce Commission its answer thereto and in such answer that railroad denied that there was or had been any violation on its part of the interstate commerce act.

Before such complaint and the matters and things therein involved were assigned for public hearing the Commission received and allowed a petition of intervention which was filed by the Elberta Crate Company, of Bainbridge, Georgia, which such intervention appeared to be in support of the complaint.

VII

That the Interstate Commerce Commission in compliance with Section 13 (3) of the Interstate commerce act, notified the State of Florida and the Florida Railroad Commission of the pendency of such proceeding before it, and that said Florida Railroad Commission upon the hearing and argument of the cause before said Interstate Commerce Commission appeared in defense of its jurisdiction of intrastate rates and of its power and authority with respect thereto.

[fol. 6] VIII

That on or about October 20, 1926, the Interstate Commerce Commission without other pleadings or order of investigation, assigned for full public hearing in Valdosta, Georgia, the complaint of the Georgia Public Service Commission aforesaid and the matters and things therein involved, and at that time and place such public hearing was commenced; that at such hearing before the introduction of any evidence by any of the parties thereto, there were filed with the Interstate Commerce Commission a number of petitions of intervention in opposition to so much of the complaint of the said Georgia Public Service Commission as alleged any violation of Sections 3 and 13 of the interstate commerce act by the respondent Atlantic Coast Line Railroad Company, and such interventions were then received and allowed in behalf of the following parties, to-wit: Brooks-Scanlon Corporation, Cummer Lumber Company, Wilson Cypress Company, Cummer Cypress Company, and the Putnam Lumber Company, then of Jacksonville, the Georgia-Florida Sawmill Association, embracing at that time most of the important manufacturers in the State of Georgia, the Southern Line Association and the Southern Cypress Manufacturers Association, embracing within their membership numerous manufacturers of pine and cypress lumber in Florida, Georgia, and elsewhere in southern territory and the Jacksonville Traffic Bureau, a civic organ-

ization in the city of Jacksonville, embracing within its membership numerous industrial, financial, and other commercial interests therein.

There also intervened in such case or proceeding before the Interstate Commerce Commission, the Seaboard Air Line Railway Company, the Central of Georgia Railroad Company, the Southern Railway Company, the Georgia-Southern and Florida Railorad, and the American Short Line Railroad Association. Such parties intervened in behalf of the defendant Atlantic Coast Line Railroad Company on the issue of alleged violations of Section 1 of the [fol. 7] interstate commerce act in respect to the measure of rates on logs published by the Atlantic Coast Line for application to shipments from origins on its line in Florida to destinations on its line in Georgia; but the intervention of such other railroads was in intended and professed support of the complaint of the Georgia Public Service Commission and against the Atlantic Coast Line in so far as said complaint of the Georgia Public Service Commission alleged that the Atalntic Coast Line Railroad was violating the provisions of Sections 3 and 13 of the interstate commerce act by the continued maintenance of the differences between such interstate rates over its line from Florida to Georgia and the lower intrastate rates over its line between points in Florida.

IX

That on the date of filing of the said complaint by the Georgia Public Service Commission with the Interstate Commerce Commission against the Atlantic Coast Line Railroad as aforesaid, there was in force and effect in the State of Florida by authority of the Florida Railroad Commission a certain intrastate rate covering the transportation of logs on the Atlantic Coast Line Railroad Company in said state which rate was commonly known as the "Cummer scale" and hereinbefore described.

X

That on the date of the filing of said complaint by the Georgia Public Service Commission with the said Interstate Commerce Commission against the said Atlantic Coast Line Railroad Company there was situate in proxim-

ity to the railroad line of said Atlantic Coast Line Railroad Company in the State of Florida, and particularly in the counties of Taylor, Madison, Lafayette, Jefferson, Alachua, Baker, Dixie, Levy and Wakulla, many millions of feet of standing pine timber, amounting in the aggregate to more than two billion (2,000,000,000) feet of standing uncut tim-
[fol. 8] ber, the capital value of which aggregates more than Twenty Million Dollars ($20,000,000); that there was engaged in cutting and loggins operations in said timber area more than five thousand (5000) men residents of the State of Florida; that among the more important persons, firms, and corporations engaged in cutting and loggins operations in the State of Florida are the following:

Brooks-Scanlon Corporation, with mills on the St. Johns River in the vicinity of Jacksonville;

Cummer Lumber Company, with mill at Milldale, Florida, in the immediate vicinity of Jacksonville;

Cummer Cypress Company, with a mill at Lacooche, Florida;

Wilson Cypress Company, with a mill at Palatka, Florida;

Wilson Lumber Company, with a mill at Perry, Florida.

The foregoing are all very large mills; there are others of less importance and size.

XI

Thereupon, the Georgia Public Service Commission, the Elberta Crate Company, the Atlantic Coast Line Railroad Company, and the other intervening railroads submitted at such public hearing in Valdosta certain evidence upon conclusion of which petitioners herein, the Putnam Lumber Company and all the other intervening shipper defendants, submitted and filed a motion to dismiss the proceedings in entirety on the ground that there was a total insufficiency of evidence in any way or remotely tending to sustain any allegation in the complaint or sufficient to constitute a cause of action within the power of the Interstate Commerce Commission. Such motion to dismiss was thereupon taken under advisement and the hearing at Valdosta adjourned to a date thereafter to be fixed.

XII

Prior to the further hearing the Georgia Public Service Commission petitioned the Interstate Commerce Commission for leave to reopen the record and to submit further evidence in its behalf, which such petition was granted, and thereupon the case came on for further public hearing in the city of Jacksonville commencing on the eighteenth day of January, 1927. At such time certain additional evidence [fol. 9] was submitted by the Georgia Public Service Commission and the Atlantic Coast Line Railroad Company, upon the conclusion of which the petitioners here, the Putnam Lumber Company and all the other intervening shipper defendants, renewed their previous motion to dismiss the case, which such motion was taken under advisement and the hearing proceeded. Thereupon the petitioners here, the Putnam Lumber Company and all the other intervening shipper defendants referred to, without waiving their motion to dismiss, submitted a subtantial amount of evidence, all of which was received and allowed and made a part of the record in such case.

XIII

Thereafter, on or about to-wit, the fifteenth day of August, 1927, an Examiner of the Interstate Commerce Commission, to whom the case had been assigned for the taking of evidence and submission of proposed report, did file, submit and service upon all interested parties his proposed report in such proceedings. In such proposed report it was found and concluded by the Examiner and recommended by him that the Commission find and conclude that the interstate rates on logs published by the Atlantic Coast — Railroad as if for application from origins on its line in Florida to destinations on its line in Georgia were and thereafter would be unreasonably high in slight amounts. It was, however, found and concluded by the Examiner and recommended by him that the commission conclude that under the evidence of record in the case there did not then exist any interstate commerce in logs over the Atlantic Coast Line Railroad from Florida origins to Georgia destinations on its line, that the differences in prevailing rates applicable to logs moving over the Atlantic Coast Line

whol-y within Florida and those published for application over the Atlantic Coast Line from Florida to Georgia did not and would not cause or constitute undue or unjust prejudice or disadvantage against interstate shippers or communities or undue preference or advantage of Florida intra-
[fol. 10] state shippers or communities, and that the evidence before the Commission did not establish any case of unjust discrimination against interstate commerce as such by reason of the voluntary continuance of the lower Florida intrastate rates on logs by the Atlantic Coast Line Railroad.

XIV

Thereafter the Georgia Public Service Commission and the intervening railroads hereinbefore named filed with the Interstate Commerce Commission exceptions to such proposed report of the Commission Examiner to which exceptions replies were in due course filed by petitioners herein, the Putnam Lumber Company and by the other intervening shipper defendants, including the Southeastern Forest Products Association, which embraced within its membership most of the manufacturers of lumber in Georgia and which by them had succeeded the association formerly known as the Georgia-Florida Sawmill Association, an original intervening shipper defendant as hereinbefore described.

In due course the case of proceeding, including the exceptions to the proposed report of the Commission Examiner and replies thereto, came on to be orally argued in Washington, D. C., before two members of the Interstate Commerce Commission constituting a majority of Division 4 thereof at such time. At such argument there appeared counsel for the Georgia Public Service Commission on the one side, and for the petitioners herein, the Atlantic Coast Line, and the intervening shipper defendants, on the other.

XV

Thereafter on August 2, 1928, such Division 4 of the Interstate Commerce Commission rendered its certain report and order in the proceedings herein referred to, attached hereto, and made a part hereof, being marked Appendix "A."

In such report and order it was found and concluded by such Division 4 of the Commission that the interstate rates on logs published by the Atlantic Coast Line Railroad to Georgia destinations on its line from Florida origins on its [fol. 11] line north of and including Jacksonville, Gainesville, Burnette's Lake and High Springs were, and would be unjust and unreasonable in violation of the provisions of Section 1 of the interstate commerce act in the same amounts previously found and recommended to it by the Examiner.

It was, however, further found by such Division 4 as follows:

"We further find that the Florida intrastate rates assailed, which are lower than the interstate rates herein found reasonable for corresponding distances, result, and will result, in undue preference and advantage of shippers of intrastate traffic within the State of Florida, in undue prejudice to shippers of interstate traffic from points in the State of Florida to points in the State of Georgia, and in unjust discrimination against interstate commerce."

"We further find that said undue preference and advantage, undue prejudice, and unjust discrimination can and should be removed by the establishment of rates for intrastate application within Florida which shall correspond with the rates herein found reasonable for interstate application from Florida to Georgia."

"We further find that whether the aforesaid rates pertain to transportation in interstate commerce or to transportation in intrastate commerce the transportation services in each instance are performed by defendant under substantially similar circumstances and conditions."

Accompanying such report was an order requiring the Atlantic Coast Line Railroad to establish on or before October 10, 1928, the interstate rates on logs therein described and (without any date being fixed therefor) requiring the Atlantic Coast Line Railroad to cease and desist from practising the undue preference and advantage, undue prejudice and unjust discrimination found in such report to exist "in the relation of intrastate to interstate rates" and to establish and put in force for the movement of logs between any two stations on its railroad throughout the State of Florida

which should be the same as those prescribed as reasonable for the transportation of logs to Georgia destinations on its line from origins in Florida on its line north of and including Jacksonville, Gainesville, Burnette's Lake and High Springs.

XVI

Thereafter such Division 4 by an order dated the twenty-seventh day of August, 1928, fixed and prescribed November 10, 1928, as the date upon which the Florida intrastate [fol. 12] log rates of the Atlantic Coast Line Railroad should be advanced for the reasons, in the manner and to the extent hereinabove described. Subsequently such effective date of the prescribed increases in Florida rates on logs of the Atlantic Coast Line was extended to December 10, 1928.

XVII

On or about, to-wit, October 1, 1928, petitioners herein, the Putnam Lumber Company, and the other intervening shipper defendants before the Commission filed with it their petitions for reargument and reconsideration of that part and portion of the report and order of Division 4 as had found the Florida intrastate log rates of the Atlantic Coast Line Railroad violative of Sections 3 and 13 of the interstate commerce act. On the first day of November, 1928, a majority of the full membership of the Interstate Commerce Commission denied such petitions of reargument and reconsideration.

XVII-

Wherefore, having exhausted their administrative remedies, your petitioners herein respectfully institute this proceeding for the purpose of annulling, vacating, and setting aside such report and order of the Interstate Commerce Commission, enjoin the enforcement thereof insofar as such report and order has required or requires the defendant in said proceeding, the Atlantic Coast Line Railroad Company, to establish, put in force, and maintain rates for the transportation of logs, (except walnut, cherry and cedar) in carloads, minimum weight 40,000 pounds, on in-

trastate commerce within the State of Florida which shall be the same as those prescribed by the said Interstate Commerce Commission as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia.

And as grounds therefor petitioners respectfully show unto the Court that said report and order in respect to such Florida intrastate rates of the Atlantic Coast Line Railroad Company on logs are arbitrary and unreasonable beyond the power of the Interstate Commerce Commission and wholly invalid and unlawful in the following respects, and for the following reasons, among others:

[fol. 13] (A). Such report and order are unlawful because under the facts of record in such proceedings before the Interstate Commerce Commission there was no constitutional right or warrant for the exercise or attempt to exercise any federal power in derogation of or superior to the power and authority of the State of Florida in respect to the regulation of intrastate commerce sought to be affected by such order.

(B). Such report and order are unlawful because there was no substantial evidence before the Interstate Commerce Commission, nor did that tribunal find that there was any substantial evidence before it showing or tending to show that there was or could be any undue or unjust preference or advantage of Florida shippers or communities, or any undue or unjust prejudice or disadvantage of Georgia Shippers in violation of Sections 3 and 13 of the interstate commerce act.

(C). Such report and order are unlawful because the Interstate Commerce Commission has thereby sought to regulate internal concerns of the State of Florida as if unjust discrimination against interstate commerce in violation of Section 13 existed when there was not submitted to the Interstate Commerce Commission by any party to the proceedings before it any case or controversy of such character, and there was no other pending proceeding or order of investigation of such Commission involving any such subject matter.

(D). Such report and order are unlawful because there were no facts of record in such proceeding before the Interstate Commerce Commission showing, or tending to show, nor did the Interstate Commerce Commission find any facts sufficient to constitute unjust discrimination against interstate commerce in violation of the provisions of Section 13 of the interstate commerce act.

[fol. 14] (E). Such report and order are unlawful because thereby the Interstate Commerce Commission has sought to embrace with- the scope thereof all rates of the Atlantic Coast Line Railroad Company on logs between any stations on its line wholly within the State of Florida for any length of haul, and in any portions of such State, although there was no cause or controversy submitted to that tribunal or pending before it involving in any way freight rates of the Atlantic Coast Line Railroad on logs within Florida except for hauls of 170 miles and less over such railroad and except for hauls of such length over such railroad wholly within the so-called northern portion of the State. Furthermore, there was no substantial evidence in such proceedings before the Interstate Commerce Commission showing or tending to show that all freight rates of the Atlantic Coast Line Railroad Company on logs over any portion of its line, wholly within the State of Florida, violated or would violate either Section 3 or Section 13 of the Interstate Commerce Act. Therefore, such order unlawfully embraces within its territorial scope freight rates on logs between points within the State of Florida, as to which no case or controversy was submitted to the Interstate Commerce Commission and as to which no substantial evidence was directed.

XIX

The said action of said Interstate Commerce Commission constitutes an unlawful invasion of the sovereign rights of the State of Florida reserved to it by the Constitution of the United States and of the citizens of the said State of Florida, and is without any warrant or authority of or under the Constitution of the United States; and further, that the same Commission was and is without jurisdiction to enter its said order.

XX

The said action of said Interstate Commerce Commission constitutes an unlawful exercise of power by the said Interstate Commerce Commission and is without warrant or authority of or under the Constitution of the United States.

[fol. 15]

XXI

Petitioners respectfully show unto the Court that the operation and effect of such order of the Interstate Commerce Commission, requiring the Atlantic Coast Line Railroad Company to establish, put in force, maintain rates for the transportation of logs (except walnut, cherry and cedar) in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida which shall be the same as those prescribed by the Interstate Commerce Commission as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia, will be to cause irreparable damage and injury in this, to-wit:

Such order would require the Atlantic Coast Line Railroad Company to very considerably increase the intrastate transportation charges now being paid for the transportation of logs from shipping points in the State of Florida to lumber mills in the State of Florida, which increase in transportation costs would immediately render it highly unprofitable to said shippers of logs to attempt to continue using the transportation facilities of said Atlantic Coast Line Railroad Company to transport said logs to existing lumber mills which are located on said line and substantiall distances away from the source of timber supply of sawmills which utilize the same. That the operators of said mills would immediately be obliged to discontinue and abandon their existing sawmill operations, thereby throwing out of employment a large number of citizens of the State of Florida and destroying existing industries located in the State of Florida and forming a substantial part of the taxable values thereof; that in addition thereto, the order of the Interstate Commerce Commission will destroy the great volume of existing intrastate commerce in logs in the State of Florida on said Atlantic Coast Line Rail-

road without bringing into existence, aiding, or promoting, or removing any obstacle to interstate commerce in logs on said Atlantic Coast Line Railroad from points in the State of Florida to points in the State of Georgia; that on account [fol. 16] of said order operators of existing mills which are dependent upon receiving their supply of logs by means of shipments of same made in intrastate commerce over the Atlantic Coast Line Railroad Company will be immediately required to discontinue and abandon their existing mill operations and undertake to reconstruct new mills located in the timber areas at the source of supply of logs, so as to completely avoid common carrier railroad transportation of logs as a means of supplying said mills with raw material to be cut into lumber; all of which will not only involve expenditures of several millions of dollars by said operators of said mills, because such relocation will cost less than the payment of the increased transportation charges on the remaining uncut timber, which would require transportation under the transportation rates sought to be put in force by said order of the Interstate Commerce Commission; that pending the relocation of said mills by the operators thereof, which would be occasioned by the enforcement of the said order of the Interstate Commerce Commission, thousands of persons now employed by the lumber mills located in the State of Florida and affected thereby, would be thrown out of employment by the immediate shut-down and closing of such mills, all of which would cause great distress to them and their families, to the communities in which they reside, and to the merchants, banks and other commercial enterprises dependent upon the continued operation of said lumber mills at their present locations; that such damage to property and persons in the State of Florida cannot be compensated for nor adequately redressed by any suit or suits at law, and petitioners herein have no plain, complete and adequate remedy at law available to them in the premises.

XXII

That already, since the commencement of the proceedings before the Interstate Commerce Commission and by reason thereof, the Putnam Lumber Company and Cummer Lumber Company, which were intervening shipper defendants [fol. 17] involved in said proceeding, have discontinued

transportation of logs over the Atlantic Coast Line Railroad between points in Florida; and said Putnam Lumber Company has constructed a new lumber mill in the vicinity of the timber owned by such company, in order to avoid the necessity of logs from the timber areas to mills located at some distance from timber supply and requiring timber supply to be transported from the timber areas to the mill by use of common carrier transportation facilities and by reason thereof said Putnam Lumber Company, which was an intervening party to said proceeding before the Interstate Commerce Commission, and the Cummer Lumber Company, now have no further interest in the matters and things involved in such proceeding before said Commission, nor in the subject matter of this suit.

Wherefore it is respectfully prayed for by the petitioners herein as follows:

I. That process may issue against the defendants, United States of America, and Interstate Commerce Commission, an administrative tribunal of the United States, with service thereof and of this Bill of Complaint, in the manner prescribed by statute in such cases made and provided.

II. That this Honorbale Court will grant to petitioners herein an interlocutory order, setting aside and enjoying enforcement of such part or parts of the order of the Interstate Commerce Commission as require the Atlantic Coast Line Railroad, a common carrier subject to the jurisdiction of the administrative regulatory Commission of the State of Florida, to establish, put in force and maintain rates for the transportation of logs (except walnut, cherry and cedar) in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida which will be the same as those prescribed by the Interstate Commerce Commission as reasonable for transportation in interstate [fol. 18] commerce from points in the State of Florida to destinations in the State of Georgia, without first seeking the authority of the State of Florida so to do and that such interlocutory order continue in force until further order of this Honorable Court.

III. That upon final hearing there will be made and entered a decree and order of this Honorable Court annulling,

setting aside, and enjoining that portion of the order of the Interstate Commerce Commission entered by it on the second day of August, A. D. 1928, in Docket No. 18364, entitled Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, 146 I. C. C. 717, by which said Interstate Commerce Commission modified and required the defendant Atlantic Coast Line Railroad Company to establish, put in force and maintain rates for the transportation of logs (except walnut, cherry, and cedar) in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida, which shall be the same as those prescribed in the same order of the Interstate Commerce Commission in a preceding paragraph thereof as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia; and that petitions have such other and further relief in the premises as to the Court shall seem meet and just and as equity may require.

For all of which petitioners forever pray.

The State of Florida, by John W. Martin, Governor. A. S. Wells, Mamie G. Eaton, E. S. Matthews, as and Constituting the Railroad Commission of the State of Florida. For the State of Florida: Fred H. Davis, Attorney General, State of Florida. T. T. Turnbull, Special Counsel for Florida Railroad Commission, Solicitor for Petitioners.

[fol. 19] EXHIBIT "A" TO BILL OF COMPLAINT

INTERSTATE COMMERCE COMMISSION

No. 18364

GEORGIA PUBLIC SERVICE COMMISSION v. ATLANTIC COAST LINE RAILROAD COMPANY

Submitted December 16, 1927. Decided August 2, 1928

1. Interstate rates on logs, except walnut, cherry, and cedar, in carloads, from Florida points north of and including Jacksonville, Gainesville, Burnett's Lake, and High Springs, Fla., to destinations in Georgia found unreasonable. Reasonable rates prescribed.

2. Florida intrastate rates on logs, except cedar, in carloads, found to be unduly preferential of shippers in intrastate commerce, unduly prejudicial to shippers in interstate commerce, and unjustly discriminatory against interstate commerce. Rates prescribed which will remove such preference, prejudice, and discrimination.

James A. Perry, W. R. McDonald, O. R. Bennett, Albert J. Woodruff, and E. M. Price for complainant.

J. M. Simmons for Elberta Crate Company, intervener, and Champion Box Company; J. C. Jackson and H. A. Jackson for Jackson Brothers Lumber Company; J. E. Davis for himself; and C. C. Giddens for J. N. Bray & Company.

Carl H. Davis, Robert C. Alston, and W. E. Kay for defendant.

Frank G. Whathmey and Henry Thurtell for Seaboard Air Line Railway Company, Central of Georgia Railway Company, Southern Railway Company, and Georgia Southern & Florida Railway Company; and J. A. Streyer for American Short Line Railroad Association, interveners.

A. S. Wells, E. S. Matthews, Mamie G. Eaton, R. Hudson Burr, Fred H. Davis, J. H. Tench, and Fred Pettijohn for Florida Railroad Commission.

T. J. McGinn for Board of Trade and city of Savannah.

Charles E. Cotterill for Cummer Cypress Company, Wilson Cypress Company, and Putnam Lumber Company; Edward P. Sanborn and George L. Rutherford for Brooks-Scanlon Corporation; H. P. Adair for Putnam Lumber Company, H. P. Osborne for Wilson Cypress Company; E. W. Mitchell for Cummer Cypress Company; J. S. Farish for Southeastern Forest Products Association; J. O. Cassidy and E. C. Green for Jacksonville Traffic Bureau; R. E. Mich for Southern Cypress Manufacturers' Association; and A. G. T. Moore for Southern Pine Association, interveners.

[fol. 20] By the Commission

Division 4, Commissioners Meyer, Eastman, and Woodlock

By Division 4:

Exceptions were filed by complainant and by interveners Seaboard Air Line, Central of Georgia, Southern, and

Georgia Southern & Florida to the report proposed by the examiner, to which the Florida Railroad Commission and interveners Jacksonville Traffic Bureau, Southeastern Forest Products Association, Brooks-Scanlon Corporation, Putnam Lumber Company, Wilson Cypress Company, and Cummer Cypress Company replied. The case has been orally argued. Our conclusions differ from those recommended by the examiner.

By complaint filed May 3, 1926, complainant alleges on behalf of Georgia log shippers that the rates on logs in car loads from points in Florida on defendant's lines to destinations in Georgia on defendant's lines are unjust and unreasonable and, as compared with the rates applicable intrastate within Florida, unjustly discriminatory and unduly prejudicial, and that defendant's Florida intrastate rates are unduly preferential of intrastate shippers in Florida, unduly prejudicial to interstate shippers from Florida to Georgia, and unjustly discriminatory against interstate commerce. Reasonable, nonprejudicial, and nondiscriminatory rates for the future are sought.

The Florida Railroad Commission filed no formal petition of intervention but appeared in defense of the Florida intrastate rates. The Elberta Crate Company of Bainbridge, Ga., intervened in support of the complaint. The Seaboard Air Line, Central of Georgia, Southern, Georgia Southern & Florida, and the American Short Line Railroad Association intervened in opposition to the continuance of the present Florida intrastate rates and to the extension of such rates interstate to Georgia. The Jacksonville Traf-
[fol. 21] fic Bureau, Brooks-Scanlon Corporation, Putnam Lumber Company, Wilson Cypress Company, and Cummer Cypress Company, hereinafter referred to as the Florida interveners, intervened in support of the Florida rates. The Georgia-Florida Sawmill Association, now the Southeastern Forest Products Association, the Southern Pine Association, and the Southern Cypress Manufacturers' Association also intervened in opposition to the complaint.

At the hearing the Florida Railroad Commission and the Florida interveners moved that the complaint be dismissed on the grounds that evidence sufficient to constitute a cause of action within the power of this commission to remedy had not been submitted and that the allegations of the com-

plaint had not been sustained. The evidence justifies consideration of the case on its merits and the motion is denied.

While complainant assails the rates from all points on defendant's lines in Florida to all points on its lines in Georgia, the record shows that in so far as the interstate rates are concerned relief is desired only with respect to rates on logs, except walnut, cherry, and cedar, from that portion of Florida lying north of and including Jacksonville, Gainesville, Burnett's Lake, and High Springs, hereinafter referred to as north Florida, to destinations in Georgia for distances not exceeding 170 miles.

The interstate rates from north Florida to Georgia are published in cents per 100 pounds, minimum 40,000 pounds, and apply between north Florida and points south of Charleston, S. C. They became effective August 15, 1925, as a part of a general revision of defendant's log rates. From points south of Jacksonville, Gainesville, Burnett's Lake, and High Springs higher interstate rates apply. The Florida intrastate rates assailed are published in amounts per car, minimum 50,000 pounds, excess in proportion, and apply on logs, except cedar, for 170 miles and under. There follows a brief history of the latter rates.

[fol. 22] On June 29, 1903, a contract was entered into between the Jacksonville & Southwestern Railroad and the Cummer Lumber Company, controlled by the same interests, under which the former agreed to transport logs for the latter at certain specified rates for a period of 15 years. The Jacksonville & Southwestern extended from Jacksonville southwesterly to Newberry, Fla., approximately 85 miles. The mills of the Cummer Lumber Company were at Mildale, near Jacksonville. Under this contract the rates per car of 50,000 pounds were $4 for distances under 40 miles, $7 for distances from 40 to 60 miles, and $8 for distances from 60 to 90 miles, with $1 per car additional for each 10 miles over 90, the rate from the Suwannee River not to exceed $10 per car. These rates are generally referred to as the Cummer scale. Defendant acquired the properties of the Jacksonville & Southwestern in 1904 and had to assume the obligations of that company under the contract referred to. Upon its expiration in 1918 the contract was not renewed. In the meantime, on January 26, 1914, defendant entered into a similar contract with the

Carpenter-O'Brien Company, the predecessor of intervener Brooks-Scanlon Corporation, which was to continue in effect until such time as the timber in Lafayette and Perry Counties, Fla., then owned by the Carpenter-O'Brien Company, consisting of approximately, 1,000,000,000 feet of pine, largely tributary to defendant's line extending from Newberry to Perry, Fl-., had been transported. The contract provided for movement from points between Clara, and Perry, inclusive, to the plant of the lumber company at Eastport near Jacksonville, 142 to 166 miles, in trainloads of not less than 30 cars per day, or 60 cars every other day, [fol. 23] Sundays and legal holidays excepted, at a rate of $12 per car, minimum 50,000 pounds, excess in proportion. It was stipulated that the contract should be subject to Federal and Florida laws and to the order of any court or commission of competent jurisdiction. Pursuant to this contract defendant filed schedules with the Florida commission extending the Cummer scale to $11 per car for distances from 110 to 130 miles, and $12 per car for distances from 130 to 150 miles. That commission refused to permit the proposed rates to become effective because they were published to apply only on train loads and were not available to all shippers. It further advised defendant that the rates themselves were too low and such as might be deemed confiscatory. The rates were republished to apply on carloads over all of defendant's Florida lines and became effective October 30, 1914. On July 5, 1916, the scale was extended so as to apply the $12 rate for distances to 160 miles. On April 30, 1919, the scale was further extended by establishing a rate of $16.50 for distances to 170 miles, the latter rate including the 25 per cent general increase of June 25, 1918. These rates were established and, as modified by the subsequent general increases and reduction, have been continued by defendant for the purpose of complying with its contractual obligations and not because it considers the scale proper for general application on intrastate traffic within Florida. The record shows 128,163 carloads containing approximately 700,000,000 feet of timber transported under the Carpenter-O'Brien contract from 1915 to 1926, both inclusive, and on argument defendant estimated that at the rate of movement at that time the contract would have from two to three years more to run. The

record also shows that intervener Brooks-Scanlon Corporation on August 31, 1926, owned timber in Wakulla, Jefferson, Madison, Taylor, Lafayette, and Dixie Counties, Fla., estimated to contain 1,207,432,000 feet.

The Florida commission and the Florida interveners contend that the Florida intrastate rates are remunerative to defendant and should not be changed. They neither advocate nor oppose the extension of such rates interstate to Georgia. The intervening carriers contend that defend- [fol. 24] ant's Florida intrastate rates are unreasonably low and are opposed to their continuance and to any reduction in defendant's interstate rates, contending that if the latter are reduced competition will necessitate corresponding reductions in their rates. Defendant does not consider the intrastate rates reasonably compensatory for general application throughout Florida but proposes to continue them, if permitted to do so, until the logs referred to in the Carpenter-O'Brien contract have been transported. It strongly opposes the use of such rates as a measure of reasonable interstate rates from Florida to Georgia. While not admitting that the interstate rates are unreasonable, defendant submitted a proposal to revise such rates down to the level of the Alabama intrastate log rates which became effective June 1, 1925, pursuant to an order of the Alabama Public Service Commission. The scale proposed covers distances up to 450 miles and would apply on logs, except walnut, cherry, and cedar, in carloads, minimum 40,000 pounds. The proposed rates are on substantially the same basis as the present rates under the scales prescribed in Pierpont Mfg. Co. v. S. Ry. Co., 50 I. C. C. 81 from points in South Carolina south of Columbia to Savannah, Ga., and in Southern Veneer Asso. v. A. C. L. R. R. Co., 62 I. C. C. 669, on popular and gum logs from points in South Carolina to destinations in Mort- Carolina. They are on the same basis as those prescribed in Southern Cotton Oil Co. v. A. C. L. R. R. Co., 120 I. C. C. 190 on logs, except walnut, cherry, and cedar, from points on defendant's line south of Charleston to Savannah. Defendant expresses a willingness to establish these rates for interstate application over its entire system except south Florida, and would apply them intrastate in North Carolina, South Carolina, and Georgia if permitted by State authorities. From south

Florida defendant would establish rates approximately 15 per cent higher than from north Florida.

[fol. 25] The present interstate and intrastate rates and the proposed interstate rates from north Florida in cents per 100 pounds, and the earnings thereunder per car of 50,000 pounds for distances to 170 miles, follows:

Distance	Florida-Georgia interstate		Florida intrastate		Proposed interstate	
	Rate	Earnings	Rate	Earnings	Rate	Earnings
	Cents		Cents		Cents	
5 miles	2.5	$12.50	1.71	$8.55	2.5	$12.50
10 miles	3	15.00	1.71	8.55	2.5	12.50
15 miles	3.5	17.50	1.71	8.55	3	15.00
20 miles	3.5	17.50	1.71	8.55	3	15.00
25 miles	4	20.00	1.71	8.55	3.5	17.50
30 miles	4	20.00	1.71	8.55	3.5	17.50
35 miles	4.5	22.50	1.71	8.55	4	20.00
40 miles	4.5	22.50	1.71	8.55	4	20.00
45 miles	5	25.00	2.10	10.50	4.5	22.50
50 miles	5	25.00	2.10	10.50	4.5	22.50
55 miles	5.5	27.50	2.10	10.50	4.5	22.50
60 miles	5.5	27.50	2.10	10.50	4.5	25.00
65 miles	6	30.00	2.30	11.50	5	25.00
70 miles	6	30.00	2.30	11.50	5	25.00
75 miles	6.5	32.50	2.30	11.50	5.5	27.50
80 miles	6.5	32.50	2.30	11.50	5.5	27.50
85 miles	7	35.00	2.30	11.50	5.5	27.50
90 miles	7	35.00	2.30	11.50	6	30.00
95 miles	7	35.00	2.60	13.00	6	30.00
100 miles	7	35.00	2.60	13.00	6	30.00
110 miles	7.5	37.50	2.80	14.00	6.5	32.50
120 miles	8	40.00	3.20	16.00	6.5	32.50
130 miles	8.5	42.50	3.20	16.00	7	35.00
140 miles	8.5	42.50	3.40	17.00	7	35.00
150 miles	9	45.00	3.40	17.00	7.5	37.50
160 miles	9	45.00	3.40	17.00	7.5	37.50
170 miles	9.5	47.50	3.70	18.50	8	40.00

Complainant introduced exhibits showing that defendant's proposed interstate rates are higher than its intrastate log rates in various of the southeastern States, than the average of such intrastate rates, and that the combined average of its intrastate and interstate rates. Rates substantially the same as those proposed by defendant were, however, prescribed by complainant in 1925 for application within Georgia, and while complainant's order was later rescinded, its rate expert testified that the rates then prescribed were in his opinion on a reasonably low basis.

[fol. 26] Complainant also submitted numerous comparisons between the Florida intrastate rates and the interstate

rates to show undue prejudcie to interstate shippers to Bainbridge, Albany, Thomasville, Quitman, Valdosta, and Waycross, Ga., and undue preference of intrastate shippers to Florida points. No movement from Florida to Georgia is shown and complainant states that there can be none because of the substantially higher level of the rates interstate than intrastate. There are 64 sawmills along defendant's line in Georgia within 170 miles of Florida, and representatives of some of them testified that there is available timber in Florida which could be economically purchased and transported over defendant's line to Georgia mills if the rates were reasonable. The following will illustrate the comparisons referred to. The charges per car of 50,000 pounds from Live Oak, Fla., to Jacksonville, 128 miles, are $16, while from Live Oak to Waycross, 83 miles, the charges are $35.

Defendant submitted evidence purporting to show the estimated cost of transporting logs of the Brooks-Scanlon Corporation during September, 1926, from Perry and Carbur to Eastport, 166 and 144 miles, respectively; 1,371 loaded cars were transported in trainloads of from 39 to 50 cars, and the estimated cost per loaded car was $19.13. This cost does not include interest on investment except on equipment used. Based on a lading of 60,200 pounds, the average of 983 carloads transported for this shipper and intervener Putnam Lumber Company, the rate for the average distance would yield revenue of $20.47 per car, but $1.34 over the estimated cost of service for trainload movements. The Florida commission also introduced a cost study to show that the intrastate rates are remunerative to defendant. Its estimate was that $14.62 represents the approximate cost per car of transporting logs in trainloads between the above points, which, deducted from the average revenue per car of $20.47, leaves a net revenue of $5.85 per [fol. 27] car. Both cost studies are based on certain arbitrary assumptions and both are based on movements in trainloads from two points of origin to one destination. Neither can be accepted to show the approximate actual cost of transporting logs in single carloads intrastate throughout Florida. The record shows that while most of the Florida intrastate log traffic is in trainloads, there is a substantial movement over defendant's line in less than trainloads.

Defendant also shows that the earnings under the Florida intrastate rates are materially lower than the earnings under the interstate rates from Florida to Georgia on brick, sand, lime, and cement. For example, it shows that the interstate rate on sand and gravel for 160 miles, equivalent to 6.75 cents per 100 pounds, yields revenue of $62.46 per car based on a lading of 92,540 pounds, as contrasted with $18.70 on logs, based on a lading of 55,000 pounds. The weights used were the actual average weights on defendant's lines for 1925. It is also shown that these Florida intrastate rates are considerably lower than any other rates, intrastate or interstate, referred to of record.

Witnesses for the Florida interveners testified that any material increase in the Florida intrastate rates would either cause them to move their plants to the timber or abandon operations, in either of which events defendant would lose considerable traffic; that these interveners have expended millions in the development of their properties, communities have grown up in the vicinity of their mills, and abandonment of the present mill sites would result in heavy losses to them and to their employees; that it would cost intervener Brooks-Scanlon Corporation between three and four million dollars to move its plant from Eastport, which would probably lose most of its 5,000 inhabitants, as practically every family is dependent upon the operation of the plant; and that other Florida lumber companies and [fol. 28] communities would be similarly affected. They also testified that there exists no Florida timber in commercial volume within 170 miles of Georgia which could be acquired by Georgia log shippers, as all of such timber is owned by Florida mills; and that while there are a few scattered areas of timber in north Florida held largely by farmers for their personal requirements, successful exploitation of these tracts, because of their limited extent, could only be accomplished by the use of portable mills operating in close proximity to the standing timber.

The interstate rates which defendant proposes from north Florida are in our opinion reasonable. They are, as heretofore stated, the same as those prescribed by the Alabama commission for intrastate application within that State, and by us for interstate application in other sections of the Southeast. All of the Florida points from which they will apply appear to be located south of the line of the

Seaboard Air Line extending from Jacksonville to River Junction, from and to which we invariably prescribe maximum reasonable rates that are higher than from and to other points in southern territory.

It is manifest, we believe, that the intrastate rates assailed, which on the average are less than half of the proposed interstate rates, are less than reasonably compensatory. The rate for 160 miles yields but 4.25 mills a ton-mile, and, based on a lading of 60,200 pounds, 12.8 cents a car-mile. They are approximately one-half of the rates prescribed in Rates on Chert, Clay, Sand, and Gravel, 122 I. C. C. 133, on sand and gravel in the Southeast and less than one-half of the rates prescribed in the supplemental report in that case, 140, I. C. C. 85, to points in Florida south of the Jacksonville-River Junction line of the Seaboard Air Line. As stated in the original report in that case, sand and gravel are of unusual low value, it being doubtful whether any traffic moves which is worth less at point of production, load very heavily, and normally move in considerable volume without unusual switching operations at either end and without anything in the nature of special services. The evidence is not convincing that logs could not or would not move from Florida to Georgia if the interstate rates and the Florida intrastate rates were on [fol. 29] the same level.

We find that the interstate rates on logs, except walnut, cherry, and cedar, in carloads, from points on defendant's lines in Florida north of and including Jacksonville, Gainesville, Burnett's Lake, and High Springs, to destinations on its lines in Georgia for distances not exceeding 170 miles are, and for the future will be, unreasonable to the extent that they exceed, or may exceed, the following distance scale of rates in centers per 100 pounds, minimum weight 40,000 pounds, which rates we find are and will be reasonable:

Distance	Rate, cents
10 miles and less	2.5
20 miles and over 10	3
30 miles and over 20	3.5
40 miles and over 30	4
55 miles and over 40	4.5
70 miles and over 55	5

85 miles and over 70	5.5
100 miles and over 85	6
120 miles and over 100	6.5
140 miles and over 120	7
160 miles and over 140	7.5
170 miles and over 160	8

We further find that the Florida intrastate rates assailed, which are lower than the interstate rates herein found reasonable for corresponding distances, result, and will result, in undue preference and advantage of shippers of intrastate traffic within the State of Florida, in undue prejudice to shippers of interstate traffic from points in the State of Florida to points in the State of Georgia, and in unjust discrimination against interstate commerce.

We further find that said undue preference and advantage, undue prejudice, and unjust discrimination can and should be removed by the establishment of rates for intrastate application within Florida which shall correspond with the rates herein found reasonable for interstate application from Florida to Georgia.

We further find that whether the aforesaid rates pertain to transportation in interstate commerce or to transportation in intrastate commerce the transportation services in each instance are performed by defendant under substantially similar circumstances and conditions.

An appropriate order will be entered.

[fol. 30] At a session of the Interstate Commerce Commission, Division 4, held at its office, in Washington, D. C., on the 2nd day of August, A. D. 1928.

No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

v.

ATLANTIC COAST LINE RAILROAD COMPANY

Order

This case being at issue upon complaint and answer on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things in-

volved having been had, and said division having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the above named defendant be, and it is hereby, notified and required to cease and desist, on or before October 10, 1928, and thereafter to abstain, from publishing, demanding, or collecting its present rates for the transportation of logs, except walnut, cherry, and cedar, in carloads, from and to the points designated in the next succeeding paragraph hereof.

It is further ordered, That said defendant be, and it is hereby, notified and required to establish, on or before October 10, 1928, upon notice to this commission and to the general public by not less than five days' filing and posting in the manner prescribed in section 6 of the interstate commerce act, and thereafter to maintain and apply to the transportation of logs, except walnut, cherry, and cedar, in carloads, from points on its lines in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake, and High Springs, to destinations on its lines in the State of Georgia, the following rates in cents per 100 pounds, subject to a minimum weight of 40,000 pounds:

[fol. 31]

Distance	Rate, cents
10 miles and less	2.5
20 miles and over 10	3
30 miles and over 20	3.5
40 miles and over 30	4
55 miles and over 40	4.5
70 miles and over 55	5
85 miles and over 70	5.5
100 miles and over 85	6
120 miles and over 100	6.5
140 miles and over 120	7
160 miles and over 140	7.5
170 miles and over 160	8

It is further ordered, That said defendant be, and it is hereby notified and required to cease and desist from practicing the undue preference and advantage, undue prejudice, and unjust discrimination found in said report to

exist in the relation of intrastate and interstate rates and to establish, put in force, and maintain rates for the transportation of logs, except walnut, cherry, and cedar, in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida which shall be the same as those prescribed in the next preceding paragraph hereof as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia.

And it is further ordered, That this order shall continue in force until the further order of the commission.

By the commission, division 4.

George B. McGinty, Secretary. (Seal.)

A true copy. George B. McGinty, Secretary.

[fol. 32] IN UNITED STATES DISTRICT COURT

[Title omitted]

NOTICE OF APPLICATION FOR INJUNCTION—Filed Jan. 3, 1929

To the Attorney General of the United States; the Interstate Commerce Commission:

You will hereby take notice that the petitioners herein will present to the District Judge of the District Court of the United States for the Northern District of Georgia, Atlanta Division, at Atlanta, Georgia an application for a temporary or interlocutory injunction or a temporary stay or suspension, restraining the United States of America and the Interstate Commerce Commission from enforcing a certain order entered by the Interstate Commerce Commission on the second day of August, 1928, as specifically set forth in the Bill of Complaint herein, copy of which Bill is attached hereto, and that said application will be for hearing at Atlanta, Georgia, at 10 o'clock a. m., on the third day of December, 1928, or as soon thereafter as the Court may hear the same.

Dated this twenty-eighth day of November, 1928.

Fred H. Davis, Attorney General, State of Florida.

Service by copy of the within application and notice is hereby acknowledged this twenty-eighth day of November, 1928.

William J. Donovan, the Assistant to the Attorney General, for Attorney General of the United States.
Daniel W. Knowlton, for Interstate Commerce Commission.

[fol. 33] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF THE UNITED STATES—Filed Dec. 24, 1928

United States, for answer to the bill of complaint filed herein against it, says:

I

United States admits the allegations and conclusions of paragraphs I to X, inclusive, with this exception: that with respect to said paragraph X it has not sufficient knowledge or information to form a belief concerning (1) the capital value of the standing uncut timber in that paragraph alleged; or (2) the location of the several sawmills and the operators thereof as alleged in that paragraph.

II

United States admits the allegations and conclusions alleged in paragraphs XI to XVII, inclusive, of the bill of complaint but with respect to the allegation contained in said paragraph XIII it alleges that the matters and things therein set forth and alleged are immaterial to any issue raised by or involved in this proceeding and are, therefore, mere surplusage, inasmuch as the proposed report of the Examiner is not the report or order of the Interstate Commerce Commission and is not and could not be attacked in this proceeding.

III

United States denies the allegations and conclusions made and contained in paragraphs XVIII to XXI, inclusive, of the bill of complaint and specifically denies the allegation

in said paragraph XXI that the operation and effect of said order of the Interstate Commerce Commission of August 2, 1928, will cause irreparable damage and injury.

[fol. 34] IV

For answer to paragraph XXII of the bill of complaint United States says that it has not sufficient knowledge or information upon which to form a belief concerning the matters and things in that paragraph alleged and, therefore, as to them neither admits nor denies.

V

Except as herein expressly admitted United States denies the truth of each and every allegation made and contained in the bill of complaint in so far as they conflict either with the allegations herein or with the statements or conclusions of fact included in said report and order of August 2, 1928.

Wherefore, having fully answered, defendant prays that the bill of complaint be dismissed at the cost of the petitioners and for such other and further order as may be appropriate.

Elmer B. Collins, Special Assistant to the Attorney General. William J. Donovan, the Assistant to the Attorney General. Clint W. Hager, United States Attorney.

Duly sworn to by Elmer B. Collins. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 35] In United States District Court

[Title omitted]

Petition for Intervention as Defendants by Georgia Public Service Commission—Filed Dec. 29, 1928

Now comes Georgia Public Service Commission and respectfully represents that it was the complainant before the Interstate Commerce Commission in the proceeding which

resulted in the report and order which is the subject matter of the litigation in this cause.

Your petitioner desires to appear and be made a party defendant in the said cause and to be represented before this Court in the disposition thereof.

This petition is made in accordance with Section 213 of the Federal Judicial Code.

Respectfully submitted.

Georgia Public Service Commission, by Jas. A. Perry, Chairman. Jas. A. Perry, Atty. for Georgia Public Service Commission.

The foregoing petition of Georgia Public Service Commission is granted.

This 29th day of Dec., 1928.

Sam'l H. Sibley, Judge United States District Court, Northern District of Georgia.

[File endorsement omitted.]

[fol. 36] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF GEORGIA PUBLIC SERVICE COMMISSION—Filed Dec. 29, 1928

Georgia Public Service Commission, intervening defendant in the above entitled suit, now and at all times hereafter saving and reserving to itself all manner of benefit and advantage of exceptions to the many errors and insufficiencies in the complainants' bill of complaint contained, for answer thereunto and to so much or such part thereof as it is advised that it is material for it to answer, says:

1

This intervener admits the allegations of paragraph 1 of the bill.

2

Intervener admits the allegations of paragraph 2 of the bill.

3

The allegations of paragraph 3 are admitted.

4

This intervener admits that the Atlantic Coast Line Railroad Company owns and operates the lines of railroad referred to in this paragraph. This intervener is advised as to the establishment of the rates on lumber known as the [fol. 37] "Cummer scale" for distances up to one hundred and seventy (170) miles, providing varying rates "per car of 50,000 pounds excess in proportion, to be loaded and unloaded by owner and not to be unloaded on the railroad's right-of-way" by the record which was made in the cause before the Interstate Commerce Commission in the case in which the order complained of was issued. That record will be laid before this Court. This intervener avers that the rates prescribed under the Cummer scale are unjust, are unreasonable and unlawful; that they are unduly and unjustly discriminative against interstate commerce and against shippers in interstate commerce; that those rates have been condemned by the order of the Interstate Commerce Commission in the report and order attached as Exhibit A to this bill, a part of which said report is as follows:

"Florida intrastate rates on logs except cedar in car loads, found to be unduly preferential of shippers in intrastate commerce, unduly prejudicial to shippers in interstate commerce and unduly discriminatory against interstate Commerce."

Those rates were also condemned by the Florida Railroad Commission in the manner set out in the Interstate Commerce Commission's report in this case.

5

The allegations of paragraph 5 are admitted.

6

It is admitted that the Atlantic Coast Line Railroad Company answered the complaint. Its answer is a part of the record before the Commission and is referred to. It is

admitted that the Elberta Crate Company of Bainbridge, Georgia, intervened in said proceeding.

[fol. 38] 7

It is admitted that the Florida Railroad Commission and the State of Florida were notified of the said proceedings in the manner required by law, and that the Florida Railroad Commission appeared and took part in the Interstate Commerce Commission proceeding.

8

It is admitted that the Interstate Commerce Commission set the cause for hearing on October 20, 1926 at Valdosta, and that a number of petitions of intervention were filed.

9

The allegations of paragraph 9 are admitted.

10

This intervener is unable to admit or deny the allegations of paragraph 10 but it admits that there are very large timber holdings in Florida and in the counties mentioned on or near the lines of the Atlantic Coast Line Railroad Company and that the corporations mentioned in this paragraph own a large part of said timber.

11

Intervener admits that there was a public hearing at Valdosta; that a large amount of testimony was taken; that a motion to dismiss these proceedings was filed by certain of the interveners, and said motion was not granted, but was denied.

12

Defendant admits that there were further hearings at Jacksonville, Florida, beginning on the 18th day of January, 1927, in said matter before the Commission; that there was a large amount of evidence received.

[fol. 39] 13

Intervener admits that the examiner taking the evidence filed a proposed report in this proceeding. Said proposed report was filed in accordance with the practice in such matters appertaining before the Commission. Said proposed report is refered to and must speak for itself.

14

Intervener admits that it and other parties at interest in the said hearing who had intervened therein, filed exceptions to all or parts of the above mentioned proposed report; that those exceptions came on to be argued orally and in Washington; that the same was argued; said argument was had before Division 4 of the Commission on the 16th day of December, 1927. The complainants in said cause were heard orally by counsel and filed briefs in said cause.

15

Intervener admits that Division 4 of the Interstate Commerce Commission rendered a report and order which is attached as Exhibit A to the bill. The report and order are referred to for their contents. In said report, the Interstate Commerce Commission found in part as follows:

"Florida intrastate rates on logs except cedar in car loads, found to be unduly preferential of shippers in intrastate commerce, unduly prejudicial to shippers in interstate commerce and unduly discriminatory against interstate commerce."

The Commission prescribed rates which would remove the said discrimination.

16

It is admitted that Division 4 of the Commission extended the effective date of its aforementioned order to November 10, 1928, and again to December 10, 1928.

17

It is admitted that the complainants and certain others filed with the Commission a petition for reargument and

reconsideration of so much of the Commission's order as found the Florida intrastate log rates of the Atlantic Coast Line Railroad Company violative of Sections 3 and 13 of the Interstate Commerce Act, and that this Motion was denied by the full Commission.

[fol. 40] 18

Intervener denies that the report and order of the Commission in respect to the Florida intrastate rates on logs of the Atlantic Coast Line Railroad Company are arbitrary and unreasonable or beyond the power of the Interstate Commerce Commission, or that the same are invalid and unlawful.

19

This intervener denies subparagraphs a, b, c and d of paragraph 18.

20

Defendant denies the allegations of paragraph 19.

21

Defendant denies the allegations of paragraph 20.

22

Answering paragraph 21, intervener admits that the order of the Interstate Commerce Commission to abandon the rates prescribed by the so-called Cummer scale in Florida and to use other rates which the Commission had determined, would be reasonable and not unduly prejudicial against interstate commerce. The rates which are prescribed by the Commission are not higher than those applicable in interstate commerce, nor are they higher than those applicable in like intrastate commerce in neighboring states, and such changes as may be wrought by the Interstate Commerce Commission's order, will be for the purpose of removing an unjust and unlawful discrimination against interstate commerce and against interstate shippers, and such order will take from Florida manufacturers of lumber no benefit which they are now lawfully entitled to have.

[fol. 41] The other allegations of this paragraph are denied.

Further answering the said bill, intervener avers:

(1) That under the so-called Cummer scale of rates, that is the Florida intrastate log scale for not exceeding one hundred and seventy (170) miles, the Florida producer of lumber is given a great advantage over his competitor in the State of Georgia. To illustrate: for one hundred and seventy miles, the maximum distance of the Cummer scale, the Florida rate on a car of 50,000 pounds, is $18.50, and the interstate rate for the corresponding distance is $47.50. The Florida scale is less than one-half of the scale applicable in interstate commerce. The State of Florida, because of the nature of its traffic conditions, generally has higher rates than thos- which apply on the same commodities for similar distances in other States in the Southeast. The log rates prescribed by the Cummer scale are the lowest in the Southeastern territory, and intervener avers that it would be wholly impracticable for a Georgia producer of lumber to buy logs in Florida and have them carried to his mill in Georgia, for to do that would put a charge on the carriage of about two and a half times as much as the charge would have been if the logs had moved a like distance under similar circumstances in the other direction to a Florida destination. The inevitable result of this is to prevent movement of logs from Florida into Georgia.

(2) Intervener avers that the lumber which is manufactured in Georgia out of logs brought from Florida points of origin must bear a tariff or a tax or a charge or a burden commensurate with the aforementioned difference in the transportation of the logs out of which the lumber is manufactured; that this handicap on the Georgia industry is [fol. 42] reflected by the large plants which are located in Florida as compared with those located in Georgia.

(3) Intervener avers that the intrastate rates in Florida under the Cummer scale are so unreasonably low that they cannot be provided as rates on intrastate commerce in Georgia and in the event the Georgia producer hauls logs for a like distance from a point of origin in Georgia to his mill

in Georgia, the same kind of burden will be placed upon the Georgia producer as if the logs had originated in Florida. So that when the Georgia lumber meets the Florida lumber in interstate competition, the Georgia manufacturer is placed at an unreasonable disadvantage in all circumstances.

(4) Intervener avers that there is ample evidence to support all of the findings of the Commission; that this evidence consisted of oral testimony and of exhibits and statistics, all of which were introduced in a closely contested proceeding which consumed a number of days at each of the two hearings, and then another day in the oral argument before the Commission, besides the filing of briefs and the other motions for reconsideration and reargument, which are referred to in the bill.

(5) There was evidence to support the fact that there was standing timber available for purchase to be used for shipment out of the State of Florida and into the State of Georgia. There was evidence to support the suggestions that pending this controversy, standing timber had been purchased by the Florida interests, which timber was than under negotiation by Georgia interests, and this timber was to have been used to manufacture lumber in Georgia. Intervener avers that it would be natural that the Florida lumber manufacturer should outbid the Georgia manufacturer for standing timber in Florida, because the Florida producer has the advantage of the Cummer scale, while the [fol 43] Georgia producer would be at the disadvantage of the interstate scale, to the extent hereinbefore indicated and more fully laid before the Commission.

(6) Intervener avers that, if it be true that the Complainants in this case and their associated companies who intervened in the cause before the Interstate Commerce Commission have acquired their monopolistic holdings in the standing timber in Florida indicated by the allegations of the bill and to sush extent that there is now no more standing timber available for sale—that has been made possible by the existence of the Cummer scale and is one of the patent ills worked by the Cummer scale against interstate commerce.

(7) Furthermore, intervener avers that if the scales of rates were upon equality, the self interest of the present holders of the standing timber in Florida, including the self interest of the complainants themselves, would dictate the sale of that timber to the mills in Georgia, which are nearer to that timber than are the mills in Florida.

[fol. 44] (8) Intervener avers that the mills in Florida having acquired large holding of timber in circumstances which enable them through the Cummer scale to outbid competitors in the State of Georgia, seek to continue to hold an unjust and unreasonable advantage acquired through the misuse of transportation rates—all of which is prejudicial to interstate commerce and to the manufacturers of lumber in Georgia, and contrary to the statutes in such cases made and provided.

9. (a) Intervener avers that in 1921 it, in the discharge of its duties as a public service commission of Georgia, undertook a revision of the Georgia intrastate rates of rail carriers.

The carriers submitted a scale of rates on forest products to be applied without transit and a scale of net rates to be applied on logs and other products under transit arrangements. At the time this was done the Georgia carriers announced their purpose to seek authority to adopt the scale thus submitted for uniform interstate application throughout their several systems to seek the authority of the various state commissions to make effective the same scale on intrastate traffic in other states as well as the State of Georgia.

The Georgia Commission did not approve the rates submitted, but after extensive hearings it issued, on April 25, 1925, an order to become effective June 1, 1925, prescribing certain rates on logs. Those rates, while lower than the scales submitted by the carriers, were somewhat higher than the existing rates in Georgia.

On May 29, 1925, the Georgia Commission suspended the rates prescribed on April 15, 1925, and a further hearing was held. At this rehearing the evidence was directed largely to the matter of discrimination in respect to which the Georgia Commission stated to the Georgia carriers as follows:

"The evidence submitted at the rehearing reveals what is, in the opinion of the Commission, an intolerable situa-
[fol. 45] tion, as regards the rates in Florida, as compared with the interstate rates between Georgia and Florida, and the effect on this situation of the suspended rates authorized in the Commission's order" (Transcript, p. 210).

(b) To illustrate some of the unusual features of the Florida intrastate log rate which is complained of; that scale begins at 1.71c per 100 pounds for a movement of 5 miles and the same rate continues through the 45 mile distance while the corresponding interstate rate begins at 2.5c for the 5 miles distance and is graduated, being at 4c for 25 miles and 4.5c for 45 miles; at 170 miles the Florida rate is 3.70c per 100 pounds and the corresponding interstate rate is 9.5c per 100 pounds, 170 miles being the maximum distance to which this scale is applicable; the rate for 180 miles becomes 8.33c per 100 pounds as compared with 3.7c per 100 pounds for 170 miles; the Florida intrastate rate on logs is very much less than its intrastate rate on short logs; the rate on short logs begins at 2.13c for 5 miles while on logs it begins at 1.71c and at 170 miles the rate on short logs is 6.25c and on logs it is 3.71c.

(c) The Florida scale which is complained of, when compared with other like commodities which usually take the same rates, show the same disparity; for instance, the rate on brick begins at 3c for the distance of 5 miles while the rate on logs is 1.71c for the same distance and at 170 miles the rate on brick is 10c per 100 pounds while the rate on logs is 3.70. Even greater disparities are shown in the matters of lime, sand and cement.

Reference is made to exhibits 11, 18, 19 and 20 of the record before the Commission and to the testimony of the wit-
[fol. 46] ness Perrin beginning at page 210 of the transcript.

(d) If the Florida intrastate scale on logs should be adopted for interstate application, the present revenue of $27.50 for a haul of 50 miles would be reduced to $11.55. This would represent less than one-half of the present interstate revenue and it would mean that the revenue per car on logs for this haul would be about one-third of the

revenue on a similar haul of brick and considerably less than one-third of the revenue on sand, gravel or lime and less than one-fifth of the present revenue on cement.

(3) If the present intrastate log scale in Florida should be adopted for interstate application between Florida and Georgia, the per car revenue on logs under the present interstate scale would be reduced for a haul of 100 miles from $38.50 to $14.30. This figure is less than one-third of the revenue derived for a similar movement of brick intrastate in Georgia, or on gravel, sand and lime, and about ¼ of the revenue derived on a similar movement of cement.

10

This intervener avers that the contract between the Atlantic Coast Line Railroad Company and the Carpenter-O'Brien Company—which was filed as Exhibit No. 13 in the proceeding before the Commission contains the following clause:

"It is further mutually covenanted and agreed by and between the parties hereto, that this contract is made pursuant and subject to all of the laws of the United States and [fol. 47] of the State of Florida, and that any change, amendment, alteration, or cancellation hereof, deemed, required or rendered necessary by any law of the United States, or the State of Florida, or by virtue of the judgment of any order of Court or Commission of competent jurisdiction, shall not be deemed a breach of the terms and conditions of this agreement."

Your intervener avers that any change which is worked in the rates mentioned in the contract by the order of the Interstate Commerce Commission was anticipated by the parties themselves and such change is within the contemplation of the contract.

Your intervener avers that under the terms of the contract with the Carpenter O'Brien Company, referred to above, the rates known as the "Cummer Scale" were to be applicable until one billion (1,000,000,000) feet of timber has been cut. This, of itself, was an improper basis of rate making, and, this intervener believes that the one billion feet has been either entirely cut or very nearly so.

Wherefore this intervener prays that the bill be dismissed, and the prayers of the complainants be denied.

Georgia Public Service Commission, per Jas. A. Perry, Chairman. Jas. A. Perry, Atty. for Georgia Public Service Commission.

[fol. 48] *Duly sworn to by Jas. A. Perry. Jurat omitted in printing.*

[fol. 49] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF INTERSTATE COMMERCE COMMISSION—Filed Jan. 3, 1929

The Interstate Commerce Commission, defendant in the above-mentioned suit, hereinafter called the Commission, now and at all times hereafter saving and reserving to itself all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the petitioners' bill of complaint contained, for answer thereunto, or unto so much or such parts thereof as it is advised that it is material for it to answer, answers and says:

I. Answering paragraphs I, II, and III of the bill of complaint, the Commission admits, for the purpose of this suit, that the allegations therein contained are true.

II. Answering paragraph IV to XXII, inclusive, of the bill of complaint, the Commission admits and alleges that it made the report and order dated August 2, 1928, referred to in paragraph XV, a copy of which it attached to and made a part of the bill of complaint as Appendix A; that said report and order were made entered in a proceeding before the Commission, entitled Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, docket No. 18364, and said report is published at 146 [fol. 50] I. C. C. 717-725; that the Commission refers the Court to the text of said report and order for full, complete, and accurate information concerning the contents of said report and order and for a description of the proceedings before the Commission upon which the report and order were and are based; that at hearings in said proceed-

ing a large volume of testimony and other evidence bearing upon the matters covered by said report and order was submitted to the Commission for consideration; that at said hearings and subsequently, both orally and in briefs filed in said proceedings, questions relating to said matters were fully argued and submitted to the Commission for determination on behalf of the parties thereto by their counsel, whereupon the Commission determined said matters and entered and served upon the parties to said proceedings the aforesaid report and order of August 2, 1928; that said report and order included the Commissioner's findings of fact, decisions, conclusions, orders, and requirements in the premises, and that, upon the evidence aforesaid and as shown in and by said report, the Commission made the findings and stated the conclusions upon which said order is based.

The Commission further alleges that the findings and conclusions in said report were and are, and that each of them was and is, fully supported and justified by the evidence submitted to the Commission in said proceedings as aforesaid.

The Commission further alleges that in making said report, it considered and weighed carefully, in the light of its own knowledge and experience, each fact, circumstance, and condition called to its attention on behalf of the parties in said proceeding by their counsel.

[fol. 51] The Commission further alleges that the said order of August 2 was not made or entered either arbitrarily, or unjustly, or contrary to the relevant evidence, or without evidence to support it; that in making said order the Commission did not exceed the authority which had been duly conferred upon it, or exercise that authority in an unreasonable manner; and the Commission denies each of and all the allegations to the contrary contained in the bill of complaint.

III. Further answering paragraph XVIII to XXII, inclusive, of the bill of complaint, the Commission denies that said order of August 2, is either unlawful or void for the reasons, or for any of the reasons set forth in said paragraphs. The Commission particularly denies that the said order of August 2 will cause either irreparable damage or irreparable injury, as stated in paragraph XXI of the bill

of complaint, unless said order of August 2 is enjoined and set aside by the Court.

Except as herein expressly admitted, the Commission denies the truth of each of and all the allegations contained in the bill of complaint in so far as they conflict either with the allegations herein, or with either the statements or conclusions of fact included in said report and order of August 2, which report and order are hereby referred to and made a part hereof.

All of which matters and things the Commission is ready to aver, maintain, and prove as this Honorable Court shall direct, and hereby prays that said bill of complaint be dismissed.

[fol. 52] Interstate Commerce Commission, by J. Stanley Payne, Assistant Chief Counsel. Daniel W. Knowlton, of Counsel.

Duly sworn to by Balthasar H. Meyer. Jurat omitted in printing.

[fol. 53] IN UNITED STATES DISTRICT COURT

No. 511

BROOKS-SCANLON LUMBER CORP., WILSON CYPRESS COMPANY, CUMMER CYPRESS COMPANY

versus

UNITED STATES OF AMERICA et als.

No. 512

WILSON LUMBER CO. OF FLORIDA

versus

UNITED STATES OF AMERICA et als.

and

No. 514

STATE OF FLORIDA

versus

UNITED STATES OF AMERICA et als.

ORDER CONSOLIDATING CAUSES—Jan. 3, 1929

On motion of Charles E. Cotterill, of counsel for the plaintiffs herein,

It is ordered that the above numbered and entitled causes be and the same are hereby consolidated for the purpose of trial.

[fols. 54 & 55] Minute entry or argument and submission omitted in printing.

[fol. 56] IN UNITED STATES DISTRICT COURT

[Titles omitted]

OPINION—Filed Jan. 17, 1929

Three bills, one by the State of Florida, one by the Wilson Lumber Company, and one by Brooks-Scanlon Corporation, Wilson Cypress Company and Cummer Cypress Company, were brought against the United States and the Interstate Commerce Commission to enjoin and set aside so much of an order of the Commission, dated August 2nd, 1928, as required the Atlantic Coast Line Railroad Company to establish and put in force in intrastate commerce within the State of Florida, certain rates on logs which were, in the same order, fixed as reasonable in interstate commerce. The Georgia Public Service Commission was allowed to intervene in all three cases in behalf of the order attacked. The bills make similar allegations of fact and substantialy similar contentions as to the invalidity of the [fol. 57] order. The State of Florida is especially concerned because of its claim of an unwarranted invasion of its control over intrastate freight rates, and the other complainants, because of their interest as shippers, in continuing the much lower rate superseded by the order. The contentions of invalidity make these main questions: 1. Is the order within the lawful powers of the Commission? 2. Is it within the issues sought to be investigated and made after full hearing of them? 3. Is it arbitrary because unsupported by sufficient evidence? 4. The State of Florida and Wilson Lumber Company, construing the order as abrogating the Coast Line's intrastate log rates throughout the State of Florida rather than within the limited territory for which new interstate rates were fixed, make the

special and newly raised contention of an entire want of evidence to support so broad an order. The assailed order arose out of a complaint filed by the Georgia Public Service Commission against the Atlantic Coast Line Railroad Company touching Coast Line interstate rates on logs from Florida to Georgia and intrastate rates thereon within Florida. The Governor of Florida was duly notified thereof and the Florida Railroad Commission appeared in defense of its rates. The other defendants here, with other sawmill operators and railroad companies, intervened, but expressly without enlarging the issues proposed. The proceedings had are clearly stated in the report of the Commission, together with the history of the rates involved and the scope of the evidence taken, and these need not be repeated. The result was an order passed by Division 4, afterwards confirmed by the whole Commission, fixing new interstate rates from points on the Atlantic Coast Line railroad north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations on its lines in Georgia, and then ordering a conformity thereto of intrastate rates.

[fol. 58] 1. The order touching the intrastate rates is based upon a finding that the former intrastate rates "did and would result in undue preference and advantage of shippers of intrastate traffic within the State of Florida, in undue prejudice to shippers of interstate traffic from points in the State of Florida to points in the State of Georgia, and in unjust discrimination against interstate commerce." This finding is in the very words of Section 13 (4) of the Interstate Commerce Act taken from the Transportation Act of 1920. The Sub-section declares that when, in investigating a rate made or imposed by authority of any State, such a condition is found, the Commission "shall prescribe the rate, fare or charge * * * thereafter to be observed in such manner as in its judgment will remove such advantage, preference, prejudice or discrimination. Such rate, fare or charge shall be observed * * * the law of any State or the decision or order of any State authority to the contrary notwithstanding." Assuming for the present the propriety of the preliminary finding, the order here made is clearly within the duty prescribed and

the power given by the quoted words. No attack has been made before us upon the constitutionality of the enactment. Such an attack would probably be sufficiently met by what was said in the suit of Wisconsin Railroad Commission v. C., B. & Q. R. R. Co., 257 U. S. 563. We recognize that because of the practical involvement and competition of almost all business done interstate with similar business done intrastate, that the power here given may easily lead to an almost complete fixing of intrastate rates by the Interstate Commerce Commission. This results from the precedence to be given, under the Constitution, to regulations by Federal power of what is under Federal control over conflicting regulations by State power of what is under State control. [fol. 59] Undue encroachment of Federal power is to be guarded against in this as in other fields by a scrupulous care to act with caution and comity, and particularly where the activity is only incidental to a superior Federal authority as is the case in the direct prescription of an intrastate rate, must the intrusion upon State authority be limited to the actual, plain and substantial necessities of the particular situation.

The contention that the intrastate rates here investigated by the Commission were not those contemplated by Section 13 (4) because they were voluntarily initiated by the carrier, and therefore not "made or imposed by authority of any State," within the description of Section 13 (3), we must overrule. The rate as originally proposed by the carrier was required to be substantially modified before it was allowed filed by the Florida Railroad Commission; and independently of that fact, its status as a lawful rate depended upon its allowance by the Florida Commission. It was established as a rate in accordance with and under the laws of Florida, and was for this reason alone a rate made, though not imposed, by authority of that State.

The further contention is made that the power in the Interstate Commerce Commission to directly prescribe an intrastate rate, which was introduced by the Transportation Act, is to be limited to cases of general horizontal raises in State rate systems, based on a finding that the State rate system is prejudicing interstate commerce by not affording its fair proportion of financial support to the carrier, and that such findings are appropriate only to investigations

instituted by the Commission itself. We think the contention unsustainable in whole or in part. It may be true, as stated in the argument, that all previous direct prescriptions [fol. 60] of intrastate rates by the Commission have been on its own initiative, but the language of the Act is without any such restriction. Section 13 (4) begins: "Whenever, in any such investigation the Commission, after full hearing, finds." The words "such investigation" plainly relate to the preceding Section, 13 (3), enacted at the same time, which in turn begins thus: "Whenever in any investigation under the provisions of this Chapter * * * there shall be brought in issue any rate * * * made or imposed by any State." The preceding, older, portions of Section 13 deal with investigations initiated by any person, firm or corporation, or by the common carrier, or by a railroad commission, or the Interstate Commerce Commission itself. Inevitably Sub-section 4 includes State rate investigations of all origins. Further, these words are not especially descriptive of general horizontal raises in all rates, but the Commission is authorized to "prescribe the rate, fare or charge, or maximum or minimum, or maximum and minimum thereafter to be charged, and the classification, regulation or practice thereafter to be observed." Under this any particular rate may be separately dealt with, and even classifications and practices in almost infinite detail, in such manner as in the Commission's judgment will remove the unjust discrimination against interstate commerce which is found to exist. It is true that in the case of Wisconsin Railroad Commission v. C., B. & Q. R. R. Co., supra, the investigation was instituted by the Commission itself, and the discrimination there found related to an unfair lowness in the general level of intrastate passenger fares, and that the language and argument of the decision are colored by these facts and adapted to them. But there is no holding in that case, or those following it, that the only unjust discrimination against interstate commerce which is remediable under Section 13, Sub-section 4, by direct prescription [fol. 61] of intrastate rates was such an one as there involved. On the contrary the effort in that opinion was to prove that such a discrimination was to be added to those already familiar, arising not from insufficient returns to the carrier from the intrastate rates, but from discrim-

inatory inequalities between them and the interstate rates, such as existed in the case at bar and such as were dealt with in Houston Railroad Co., v. United States, 234 U. S. 342; American Express Co., v. Caldwell, 244 U. S. 617, and Illinois Central Railroad Co., v. Public Utilities Commission of Illinois, 245 U. S. 493.

2. Section 13 (4) conditions the direct prescribing by the Commission of an intrastate rate upon there having been a full hearing in such an investigation as Sub-section 3 authorizes. Sub-section 3 applies to an investigation in which "a rate made or imposed by authority of any state shall have been brought in issue," and requires that the state interested shall be notified. The State of Florida was in this instance notified and appeared by its Commission. By Section 13 (1) (2) of the Act, and by the rules of practice of the Commission, the issues for investigation are to be defined in writing, by quasi pleadings of the parties, or by orders of the Commission as to what shall be investigated. The issues in this matter were defined by the original complaint of the Georgia Public Service Commission, unchanged by the interventions or answers, or by any directions of the Interstate Commerce Commission. This complaint, besides attacking the intrastate rates on logs from all points on the Coast Line Railroad in Florida to all points in Georgia, specifically exhibited and assailed the Florida intrastate rates on logs (see paragraph 11) both as given undue and unreasonable preference and advantage to intrastate ship-[fol. 62] pers, and as being unduly prejudicial to interstate shippers, but also as causing "undue and unreasonable, and unjust, discrimination against interstate commerce in violation of Section 13 of the Interstate Commerce Act." The prayers of the complaint did not ask a raise of the intrastate rate, but did ask parity between interstate and intrastate rates and that the aforesaid violation of the Interstate Commerce Act be stopped. If any of the violations of the Act complained of as being such as are mentioned in Section 13 (4) were found to exist, the remedy to be applied is, by the words of the Sub-section, left to the judgment of the Commission. It was not necessary that the complaint should select and pray for a particular solution of the difficulty. To do so might be thought to confine the Commis-

sion to the use of that remedy only. The complaint went far enough in stating the facts and in asserting that a discrimination against interstate commerce existed as a result. The State rate was thereby clearly put in issue and the power of the Commission under Section 13 (4) invoked.

We do not think the oral statement attributed to the Chairman of the Georgia Commission during the examiner's hearing, to the effect that he desired the lowering of the interstate rate rather than the raising of the intrastate rate, either changed the issue or limited the action of the Interstate Commerce Commission. Neither the Examiner nor the counsel in their subsequent arguments before the Commission understood that the claim of discrimination by the intrastate rates against interstate commerce had been eliminated. If it existed, whether removal of it ought to be accomplished by lowering interstate rates or by raising the intrastate rates was a question for the decision of the Commission alone, and not of the contesting parties. On that question the remunerativeness to the carrier of the State rates was plainly a relevant matter and was of importance [fol. 63] on that question only. The Florida Commission itself presented evidence touching it. The hearing was, therefore, not prevented from being full and fair by any mistake of the participants as to the issues that were to be investigated.

3. We find substantial evidence to sustain the conclusions of the Commission on all material points. The chief contention to the contrary is that the evidence discloses such complete ownership of the sources of logs in Florida by Florida mills as to insure their moving to their owners and leaving no substantial amount which could move to Georgia on the interstate rates fixed, with the result that in no real or fair sense could it be held that the law intrastate rates did prejudice or discriminate against interstate commerce or interstate shippers. This contention is well supported so far as concerns large tracts of timber, logs from which would move in train loads, as do most of those in Florida now handled by the Coast Line Railroad. But the rate assailed is not a train load but a car-load rate, and the evidence abundantly justified the conclusion that there is an

indefinite quantity of what is called "Scattered timber," not yet cut, in north Florida, which is not owned by Florida mills and which the Commission could find would be as likely to move to Georgia as to Florida points if a rate parity were afforded.

4. A more troublesome question is that raised by the State of Florida and Wilson Lumber Corporation (paragraph 18e of the one bill and paragraphs 7 and 10 of the other) that the evidence, and the findings of the Commission, related only to north Florida, while the order complained of fixed intrastate rates for the whole of Florida, and was unjustified according to the rulings in Wisconsin R. R. Commission v. C. B. & Q. R. R., 257 U. S. 563, and Illinois Cen- [fol. 64] tral R. R. Co. v. Public Utilities Comm. of Ill., 245 U. S. 493. From a cursory search of the record it appears to be true that the evidence, though often broadly phrased, really related to the logs in north Florida, a territory described by the Commission in its order establishing new intrastate rates as north of and including Jacksonville, Gainesville, Butnett's Lake and High Springs. No interest, apparently, was taken by any one in the territory more remote from the Georgia line, evidently because the class of logs involved could, under no circumstances, be profitably moved so great a distance. Although the complaint covered the whole of Florida, the real contention, and the Commission's own action upon the interstate rates were limited to that northern territory, and the evidence related only to it. The precise condition in south Florida, and whether there could or would be any interstate commerce in logs from that region, were never investigated. The language of the order passed touching the intrastate rates can be construed as fixing rates for the whole state. The two bills above referred to so construe it. The respondents in answering the bill of the State of Florida seem to deny this construction. The answers to the bill of Wilson Lumber Company vary. Those of the Interstate Commerce Commission and Georgia Public Service Corporation do not commit themselves to any construction, but leave the order to speak for itself. We think it can also be construed as limited to points of origin on the Coast Line railroad north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs. The existence and availability of logs at such origins was fully

investigated, and at others not. The Commission confined its order on interstate rates expressly to these origins, and dealt with the intrastate rates only by reference to the order fixing the interstate rates, declaring that the rates "in in-[fol. 65] trastate commerce within the state of Florida shall be the same as those prescribed in the next preceding paragraph hereof as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia. The preceding paragraph fixes only one-way rates, and was limited to origins on the Coast Line railroad in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs. The destinations in Georgia there referred to were, of course, excluded by the words "within Florida" in the order as to intrastate rates. Otherwise the intrastate rates were to be the same. Since the first construction would probably nullify the order, we think we should follow the established rules in construing contracts and statutes, holding to the latter construction which would uphold it. Territorial indefiniteness of the order was held aided by the other proceedings in American Express Co. v. Caldwell, 244 U. S. 617.

The serious effect of altering the rates upon the business of complainants and their investments made on the faith of them is strongly urged. Such things may be considered by the Commission in determining what is just and reasonable, or undue or unfair, without vitiating their finding (I. C. C. v. Union Pacific R. R. Co., 222 U. S. 541), and were considered in this case. But such considerations cannot be the sole basis of a rate order (Southern Pacific Co. v. Interstate Commerce Commission, 219 U. S. 433). A fortiori they alone cannot avail in this court to overturn an unfavorable order.

We find no sufficient cause to enjoin and set aside the order here complained of.

This January 17th, 1929.

Sam'l H. Sibley, U. S. Judge.

[fol. 66] IN UNITED STATES DISTRICT COURT

In Equity. No. 514

THE STATE OF FLORIDA, Complainant,

vs.

THE UNITED STATES and THE INTERSTATE COMMERCE COMMISSION, Defendants

DECREE—Filed Jan. 17, 1929

This case was submitted for final decree to a court of three judges, to-wit: Hon. Richard W. Walker, United States Circuit Judge, Hon. Benjamin C. Dawkins, United States District Judge, and Hon. Samuel H. Sibley, United States District Judge. After hearing evidence and argument, and the Court being fully advised, it is, for the reasons stated in an opinion this date filed, considered and decreed that the relief prayed by the complainant be denied and the bill be dismissed.

This 17 day of January, 1929.

R. W. Walker, United States Circuit Judge. Ben C. Dawkins, United States District Judge. Sam'l H. Sibley, United States District Judge.

[File endorsement omitted.]

[fol. 67] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR REHEARING

To the Honorable Judge of the District Court in and for the Northern District of Georgia, Atlanta Division, in Chancery Sitting:

Now comes the State of Florida by Fred H. Davis, its Attorney General, and A. S. Wells, E. S. Matthews, and Mamie G. Eaton as and constituting Florida Railroad Commission and T. T. Turnbull, special counsel for said Florida Railroad Commission designated, and files and presents

this, its Petition for Rehearing in the above entitled cause, and as grounds therefor asserts the following:

1. (a) That prior to October 5th, A. D. 1928, the Atlantic Coast Line Railroad Company, purporting to comply with the order entered August 2nd, 1928, by the defendant, Interstate Commerce Commission and sought to be enjoined, set aside and annulled in this proceeding, did file with said Interstate Commerce Commission its Supplement #10 to J. H. Glenn's Agent's Southern Lumber Tariff I. C. C. A-659, wherein and whereby the said Railroad Company purported to cancel throughout the State of Florida, the scale of rates for many years in force and effect under the laws of the State of Florida for the transportation of logs except cedar, and to put into effect on October 10th, 1928, between [fol. 68] all points on its lines in intrastate traffic within the State of Florida, the same rates which were prescribed by the order of said Interstate Commerce Commission for application from points on the line of said Railroad Company in said State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, Florida, to destinations on its lines in the State of Georgia.

(b) That prior to October 5th, A. D. 1928, said Railroad Company likewise purporting to comply with the order of said Interstate Commerce Commission, did file with said Interstate Commerce Commission, its Supplements 4, 5, 6 and 7 to its Florida local tariff No. 20, I. C. C. B-2466 and preceding issues thereof, wherein and whereby the said Railroad Company purported to cancel throughout the State of Florida, the scale of rates for many years in force and effect under the laws of Florida for the intrastate transportation of "ash, gum, hickory, oak, pine and cypress logs not over six feet in length" in carload quantities (hereinafter sometimes referred to as Short Logs), and to put into effect on October 10th, 1928, between all points on all of its lines in intrastate traffic within the State of Florida, rates substantially equivalent to the rates prescribed by the order of said Interstate Commerce Commission for the transportation of logs, except walnut, cherry and cedar, from all points on its lines in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its lines in the State of Georgia.

(c) That the said rates so prescribed by the August 2nd, 1928 order of said Interstate Commerce Commission for application north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations in the State of Georgia, were materially higher than the said Florida intrastate rates established under and pursuant to the Laws of Florida for the transportation of logs except cedar, and materially higher than the rates established under and pursuant to the Laws of Florida for the intrastate transportation of Short Logs as aforesaid.

[fol. 69] (d) That such proceedings were had before the Interstate Commerce Commission so that the respective effective dates of so much of said order fixing rates for the transportation of logs intrastate between points in Florida, and the alleged cancellation of said intrastate rates on logs and short logs, and of the alleged application of the new rates sought to be established in lieu thereof, were postponed until February 8th, 1929.

2. That after the rendition and entry of the decision, opinion and final decree of this Court herein, your petitioner recognizing that the said decision, opinion and decree was the law of the land unless and until the same was modified, set aside or reversed, your petitioner, acting by and through the said Railroad Commissioners of the State of Florida, on, to-wit, the 30th day of January, 1929, did make and cause to be entered in the records of said Railroad Commission an order wherein and whereby it was declared and decreed that so long as the said decision, opinion and decree of this Court should remain in force and unreversed, the rates prescribed by said order of said Interstate Commerce Commission for the transportation in one direction, northbound, of logs under the following tariff description, to-wit, "logs, except walnut, cherry and cedar, in carload quantities minimum weight 40,000 pounds" from points on the lines of said Railroad Company in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations on its lines in the State of Georgia, would on and after February 8th, 1929, supersede the Florida intrastate scale of rates condemned by said Interstate Commerce Commission insofar as said Florida intrastate scale of rates applied to the transportation of logs except cedar moving northbound, in

one direction, from point of origin on the lines of the said Railroad Company north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its lines in the State of Florida for distances not exceeding 170 miles.

3. And having so recognized the binding force and effect of the order of said Interstate Commerce Commission as construed and limited by the decision, opinion and decree of this Court, the said order of said Florida Railroad Com- [fol. 70] missioners did declare that all existing Florida intrastate rates for the transportation of logs, except cedar, and for the transportation of Short Logs, should continue in force and effect except to the limited extent that such State rates were superseded by the scale of rates prescribed by the order of said Interstate Commerce Commission as limited for application in territorial scope, in direction of movement and otherwise, by the decision, opinion and decree of this Court.

That a copy of the order #979 of the Florida Commission is hereto attached, marked Exhibit A, and made a part hereof.

4. That no rate on Short Logs was in issue in said proceedings before said Interstate Commerce Commission in Docket #18364 and said Interstate Commerce Commission, prior to January 31, 1929, disclaimed jurisdiction over rates for the transportation of Short Logs instrastate between points in Florida. That said decision, opinion and decree of this Court construed and limited the application of said order of said Interstate Commerce Commission in territorial scope and otherwise, as is set forth in said decision, opinion and decree and hereinabove set forth, yet, notwithstanding such fact, the said Atlantic Coast Line Railroad Company, to-wit: prior to January 31st, 1929, asserted and claimed that said order of said Interstate Commerce Commission was applicable to the transportation of Short Logs and was applicable to the transportation of logs, except walnut, cherry and cedar moving intrastate over all its lines in all directions from all points throughout Florida. That said Railroad Company declared its intention to demand, charge and collect, on and after February 8th, 1929, from all shippers of Short Logs and all shippers of logs, except walnut, cedar and cherry,

between all points on its lines in Florida, the same scale of rates prescribed by the order of said Interstate Commerce Commission for transportation of logs from points in Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations in Georgia.

5. That under and pursuant to the Laws of Florida it is the duty of the Railroad Commission in the name of the State of Florida, and in the courts of the State of Florida, to enforce by injunction or otherwise, all intrastate rates [fol. 71] established under and pursuant to the Laws of Florida except to the extent that such rates should have been superseded by the paramount Federal power. That pursuant to such duty, and on, to-wit, January 31, 1929, there was filed in the Circuit Court in and for Duval County, Florida, in the name of the State of Florida, as complainant, acting by and thru the said Railroad Commission and the said Attorney-General, a certain Bill of Complaint against said Railroad Company as defendant, and wherein the relief sought was injunctions, temporary and permanent, enjoining and restraining said Railroad Company from demanding, charging or collecting on or after February 8, 1929, any rates or charges higher than the existing Intrastate Rates for the transportation of logs, except cedar, in carload quantities, except from points of origin within the area to which this Court by its said decision, opinion and decree held said order of said Interstate Commerce Commission to be applicable; and to enjoin and restrain the said Railroad Company from demanding, charging or collecting on or after February 8, 1929, in intrastate traffic, the said scale of rates prescribed by said order of said Interstate Commerce Commission except for the transportation, northbound, from points of origin within the area to which this court held said order of August 2nd, 1928, to be applicable; and likewise to enjoin and restrain the said Railroad Company from demanding, charging and collecting on or after February 8th, 1929, any rates or charges higher than the existing intrastate rates on Short Logs moving intrastate in Florida between all points on the lines of said Railroad Company in Florida.

6. That thereafter, on February 4th, 1929, the said Railroad Company filed its Petition and Bond for the removal of the said last described suit from the said State Court to the United States District Court for the Southern District of Florida but said State Court denied said Petition for Removal and retained jurisdiction of said cause and thereupon the said State Court issued said injunctions substantially as was prayed.

7. That thereafter to-wit: on February 5, 1929, the said Interstate Commerce Commission by its order dated that day did amend its said order of August 2, 1928, so that said last described order, as amended, should expressly declare [fol. 72] that Short Logs were not within the purview thereof.

A true copy of said order dated February 5, 1929, is hereto attached as Exhibit B and made a part hereof.

8. That thereafter on February 7, 1929, the said Atlantic Coast Line Railroad Company, as Complainant, did file in the United States District Court for the Southern District of Florida, its ancillary bill of complaint wherein the said A. S. Wells, E. S. Matthews and Mamie G. Eaton, Members of the Railroad Commission of Florida, were named as defendants and wherein and whereby the said Railroad Company sought to effect a removal of said State Court suit to said United States District Court and also to enjoin the said A. S. Wells, E. S. Matthews and Mamie G. Eaton from proceeding further in the prosecution of said State Court suit; and also sought a decree of said United States District Court declaring that said injunction issued by said State Court to be null and void. And on said February 7, 1929, the said Railroad Company did present said ancillary Bill to the Hon. W. B. Sheppard, Judge of the District Court of the United States for the Northern District of Florida, theretofore lawfully assigned to and sitting as Judge for the Southern District of Florida, and did move said court to issue the temporary injunctions therein prayed.

9. That on, to-wit: February 7, 1929, the said Railroad Company did likewise file in the United States District

Court for the Northern District of Florida its original bill of complaint wherein and whereby the said Railroad Company (notwithstanding the decision, opinion and decree of this Court) did assert that the order of said Interstate Commerce Commission, dated August 2, 1928, required it to demand, charge and collect for the transportation of logs, except walnut, cherry and cedar, intrastate in Florida, from all points of origin on its lines in Florida to all destinations on its lines in Florida, moving in all directions, the same scale of rates as were prescribed by said order for application on interstate movements of logs, except walnut, cherry and cedar, northbound, from all points of origin north of Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations in Georgia. And said Railroad [fol. 73] Company in and by said bill, among other things, prayed that the said defendants therein named be temporarily and permanently enjoined from interfering with the demanding, charging and collecting by it of the said last described rate between any point of origin on its lines in Florida and any destination on its line in Florida, in any direction.

That on the same day, to wit: February 7, 1929, the said Railroad Company did present the last mentioned bill to the Hon. W. B. Shepard, as Judge of said Northern District of Florida, and at the same time did move said Court to issue the temporary injunctions therein prayed.

10. That the said ancillary bill referred to in paragraph 8 above and the said bill referred to in paragraph 9 above were presented to the said Judge at one and the same time; that after the filing and presentation thereof and before any orders had been made by said court thereon the said Interstate Commerce Commission, without notice to your Petitioner, on, to wit, February 7, 1929, did make and direct to be published at 10 o'clock a. m. on February 8, 1929, a certain order, wherein and whereby said Interstate Commerce Commission did so amend its said order of August 2, 1928, so that the same as amended required said Railroad Company to apply the scale of rates for the transportation of logs, except walnut, cherry and cedar logs and except short legs, moving in carload quantities, between all points of origin in the State of Florida on the lines of said Rail-

road Company in all directions to all destinations on the lines of said Railroad Company in Florida, the same as said scale of rates prescribed by said order of August 2, 1928, for application to the transportation interstate of such logs in such quantities from points north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs north bound to destinations in Georgia. That a copy of said order of February 7, 1929, is hereto attached, marked Exhibit C, and made a part hereof.

11. That afterwards, to wit: on February 8, 1929, the said ancillary bill so filed by said Railroad Company in the said United States District Court for the Southern District of Florida and the said Bill so filed by said Railroad Company in the United States District Court for the Northern [fol. 74] District of Florida were amended by said Railroad Company and answers and motions to dismiss were duly filed by your Petitioner to the said bill and ancillary bill as amended as aforesaid; and thereupon said United States District Courts respectively, did make and enter orders denying the said injunctions prayed by said bills, respectively, and dismissed both of said bills.

That on February 13th, 1929, the said United States District Court for the Southern District of Florida, upon the Petition of said Railroad Company, did allow an appeal from the decree of said last described Court of the United States Circuit Court of Appeals for the Fifth Circuit and the said appeal is now pending.

12. That the purpose, intent and effect of said order of the Interstate Commerce Commission of August 2, 1928, as amended by said order of February 7, 1929, is to repudiate, refute and deny the construction and limitation placed upon the said order of August 2, 1928, prior to said amendment of February 7, 1929; and said order, as amended as aforesaid, constitutes an attempt on the part of said Interstate Commerce Commission to fix and establish intrastate rates from all points of origin on the lines of said Railroad Company in Florida to all destinations on the lines of said Railroad Company in Florida in all directions.

13. That said order of said Interstate Commerce Commission, as amended as aforesaid, insofar as it seeks to regulate intrastate rates in Florida, is null and void and of no

force and effect for the several specific reasons set forth in your petitioner's bill of complaint heretofore filed herein, reference to which is hereby prayed as if the same was specifically set forth herein in haec verba, and for said reasons and under said decision, opinion and decree of this court ought to be wholly enjoined, set aside and annulled.

14. Your Petitioner herewith tenders and presents its supplemental bill in the nature of a bill of review wherein your petitioner upon re-hearing seeks to restrain, enjoin, set aside, declare null and void and of no effect said order of the Interstate Commerce Commission of August 2nd, 1928, as amended by its order of February 7th, 1929.

[fol. 75] Wherefore your petitioner prays as follows:

(a) That this Court entertain this Petition for re-hearing.

(b) That the Final Decree of this Court entered January 17, 1929, be opened, vacated and set aside, and that a re-hearing be granted to your Petitioner herein.

(c) That your Petitioner be permitted and allowed to file herein its supplemental bill in the nature of a bill of review which herewith has been tendered and presented, to properly bring before this court the new facts, matters and things herein specifically set forth all of which are material and not cumulative; and all of which occurred after the rendition of this Court's decree on January 17, 1929; and had such facts, matters and things existed prior to January 17, 1929, a decree would have been entered in favor of your Petitioner.

(d) That the defendants, United States of America and Interstate Commerce Commission, and the Intervener, Georgia Public Service Commission, be ordered and required on a day certain to show cause why the prayers in this petition should not be granted.

(e) That your Petitioner may have such other and further relief as to this Court may seem proper and the nature of the case may require.

And your Petitioner will ever pray, etc.

State of Florida, by Doyle E. Carlton, Governor. A. S. Wells, E. S. Matthews, Mamie G. Eaton, as and Constituting the Railroad Commission of the State of Florida. For the State of Florida: Fred H. Davis, Attorney General, State of Florida. Theo. T. Turnbull, Special Counsel for Florida Railroad Commission.

Recd. in Clerk's Office Feb. 21, 1929.

[fol. 76] IN UNITED STATES DISTRICT COURT

[Title omitted]

SUPPLEMENTAL BILL OF COMPLAINT—Feb. 21, 1929

To the Honorable Judge of the District Court in and for the Northern District of Georgia, Atlanta Division, in Chancery Sitting:

State of Florida, by Fred H. Davis, its Attorney-General, and A. S. Wells, N. S. Matthews and Mamie G. Eaton, as and constituting Florida Railroad Commission, by T. T. Turnbull, Special Counsel designated by them, bring this, its Supplemental Bill of Complaint in the nature of a Bill of Review against the United States of America and Interstate Commerce Commission, and thereupon your Orator complaining says:

[fol. 77] I

That heretofore, to-wit: on the 27th day of November, A. D., 1928 your Orator filed in this cause its Bill of Complaint (hereinafter called the "Original Bill") against the defendants herein, wherein and whereby your Orator sought to annul, set aside and enjoin that portion of the order (hereinafter called "Said Order"), of the Interstate Commerce Commission entered by it on the 2nd day of August, A. D. 1928, in Docket #18364 entitled "Georgia Public Service Commission vs. Atlantic Coast Line Railroad" (146 I. C. C. 717), wherein and whereby said Inter-

state Commerce Commission attempted to require Atlantic Coast Line Railroad, a common carrier subject to the jurisdiction of the administrative regulatory commission of the State of Florida, to establish, put in force and maintain rates for the transportation of logs, except walnut, cherry and cedar, in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida, the same as those prescribed by said Interstate Commerce Commission as reasonable for transportation in interstate commerce from points in the State of Florida, north of and including, Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations in the State of Georgia. That said "Original Bill" likewise alleged that "Said Order" was entered without first seeking the authority of your Orator so to do.

That answers were filed by the defendants to said "Original Bill," and Georgia Public Service Commission was permitted to intervene and file its answer thereto.

That at the same time your Orator filed its aforementioned Bill of Complaint, two other Bills of Complaint were filed against the Defendants herein; one by the Wilson Lumber Company and the other by the Brooks-Scanlon Corporation, the Wilson Cypress Company and the Cummer Cypress Company. In each of the two last mentioned Bills of Complaint, the relief prayed for was substantially similar to that prayed for in and by your Orator's "Original Bill." That upon your Orator's "Original Bill," and said two other Bills of Complaint coming on to be heard, the same were consolidated for the purpose of final hearing; and after due and regular notice, final hearing was had at New Orleans, Louisiana, before Judges Sibley, Walker and Dawkins, testimony was taken and said cases [fol. 78] submitted. That thereafter, on the 17th day of January, A. D. 1929, an opinion was handed down in said cases so consolidated and orders entered dismissing each of said "Original Bills" which said orders of dismissal by specific reference made the opinion of this Court a part thereof.

The aforesaid proceedings above enumerated all appear of record in this Court, and reference thereto is hereby specifically prayed.

II

That in and by its opinion, this Court, to hold "Said Order," valid, construed "Said Order," insofar as it was applicable to intrastate rates in Florida, as being limited to the territory specifically referred to by the Interstate Commerce Commission in "Said Order," fixing interstate rates from points in Florida to destinations in Georgia, such construction and limitation being confined to one-way traffic north bound from points of origin on the lines of the Atlantic Coast Line Railroad Company in Florida north of and including Jacksonville, Gainesville, Barnett's Lake and High Springs, for distance not exceeding 170 miles. And thereupon and thereby "Said Order" with such construction and limitation was upheld and said "original Bill" dismissed.

III

That Supplemental Bills in the nature of Bills of Review are likewise being filed by The Wilson Lumber Company and by Brooks-Scanlon Corporation. Wilson Cypress Company and Cummer Cypress Company. That certain exhibits will be referred to and mentioned in each of said supplemental bills and likewise in this Bill. That only one set of exhibits will be filed in support of said three (3) Supplemental Bills, in order to avoid encumbering the record of said suits.

IV

(a) That prior to October 5th, A. D. 1928, the Atlantic Coast Line Railroad Company, purporting to comply with "Said Order" entered August 2nd, 1928, by the defendant, Interstate Commerce Commission and sought to be enjoined, set aside and annulled in this proceeding, did file with said Interstate Commerce Commission its Supplement #10 to J. H. Glenn's Agents' Southern Lumber [fol. 79] Tariff I. C. C. A-659, wherein and whereby the said Railroad Company purported to cancel throughout the State of Flordia, the scale of rates for many years in force and effect under the laws of the State of Florida for the transportation of logs except cedar, and to put into effect on October 10th, 1928, between all points on its lines

in intrastate traffic within the State of Florida, the same rates which were prescribed by the order of said Interstate Commerce Commission for application from points on the line of said Railroad Company in said State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, Florida, to destinations on its lines in the State of Georgia.

(b) That prior to October 5th, A. D. 1928, said Railroad Company likewise purporting to comply with the order of said Interstate Commerce Commission did file with said Interstate Commerce Commission, its Supplements 4, 5, 6 and 7 of its Florida local tariff No. 20, L. C. C. B-2466 and preceding issues thereof, wherein and whereby the said Railroad Company purported to cancel throughout the State of Florida, the scale of rates for many years in force and effect under the laws of Florida for the intrastate transportation of "ash, gum, hickory, oak, pine and cypress logs not over six feet in length," in carload quantities (hereinafter sometimes referred to as Short Logs), and to put into effect on October 10th, 1928, between all points on all of its lines in intrastate traffic within the State of Florida, rates substantially equivalent to the rates prescribed by the order of said Interstate Commission for the transportation of logs, except walnut, cherry and cedar, from all points on its lines in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its lines in the State of Georgia.

(c) That the said rates so prescribed by the August 2nd, 1928 order of said Interstate Commerce Commission for application north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations in the State of Georgia, were materially higher than the said Florida intrastate rates established under and pursuant to the Laws of Florida for the transportation of logs except cedar, and materially higher than the rates established under and pursuant to the Laws of Florida [fol. 80] for the intrastate transportation of Short Logs as aforesaid.

(d) That such proceedings were had before the Interstate Commerce Commission so that the respective effec-

tive dates of so much of said order fixing rates for the transportation of logs intrastate between points in Florida, and the alleged cancellation of said intrastate rates on logs and short logs, and of the alleged application of the new rates sought to be established in lieu thereof, were postponed until February 8th, 1929,

V

That after the rendition and entry of the decision, opinion and final decree of this Court herein, your Order in compliance therewith and recognizing that said decision, opinion and decree was the law of the land unless and until the same was modified, set aside or reversed, on, to-wit: the 30th day of January, 1929, did make and cause to be entered in the records of said Railroad Commission, an order, wherein and whereby it was declared and decreed that so long as the said decision, opinion and decree of this Court should remain in force and unreversed, the rates prescribed by said order of said Interstate Commerce Commission for the transportation in one direction, northbound, to-wit, "logs, except walnut, cherry and cedar, in carload quantities minimum weight 40,000 pounds," from points on the lines of said Railroad Company in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations on its lines in the State of Georgia, would on and after February 8th, 1929, supersede the Florida intrastate scale of rates condemned by said Interstate Commerce Commission insofar as said Florida intrastate scale of rates applied to the transportation of logs except cedar moving northbound, in one direction, from points of origin on the lines of the said Railroad Company north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its lines in the State of Florida for distances not exceeding 170 miles.

VI

And having so recognized the binding forces and effect of the order of said Interstate Commerce Commission as construed and limited by the decision, opinion and decree

of this Court, the said order of said Florida Railroad Com-
[fol. 81] mission did declare that all existing Florida intrastate rates for the transportation of logs, except cedar, and for the transportation of Short Logs, should continue in force and effect to the limited extent that such State rates were superseded by the scale of rates prescribed by the order of said Interstate Commerce Commission as limited, for application in territorial scope, in direction of movement and otherwise, by the decision, opinion and decree of this Court.

That a copy of the order #979 of the Florida Commission is herewith tendered as Exhibit A, and made a part hereof.

VII

That no rate on Short Logs was in issue in said proceedings before said Interstate Commerce Commission in Docket #18364 and said Interstate Commerce Commission, prior to January 31, 1929, disclaimed jurisdiction over rates for the transportation of Short Logs intrastate between points in Florida. That said decision, opinion and decree of this Court construed and limited the application of "Said Order" in territorial scope and otherwise, as is set forth in said decision, opinion and decree and hereinabove set forth, yet, notwithstanding such fact, the said Atlantic Coast Line Railroad Company, to-wit: prior to January 31st, 1929, asserted and claimed that "Said Order" was applicable to the transportation of Short Logs and was applicable to the transportation of logs, except walnut, cherry and cedar moving intrastate over all its lines in all directions from all points throughout Florida. That said Railroad Company declared its intention to demand, charge and collect, on and after February 8th, 1929, from all shippers of Short Logs and all shippers of logs, except walnut, cedar and cherry, between all points on its lines in Florida, the same scale of rates prescribed by the order of said Interstate Commerce Commission for transportation of logs from points in Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations in Georgia.

VIII

That under and pursuant to the Laws of Florida it is the duty of the Railroad Commissioners in the name of the State of Florida, and in the Courts of the State of Florida, to enforce by injunction or otherwise, all intrastate rates [fol. 82] established under and pursuant to the Laws of Florida except to the extent that such rates should have been superseded by the paramount Federal power. That pursuant to such duty, and on, to-wit: January 31, 1929, there was filed in the Circuit Court in and for Duval County, Florida, in the name of the State of Florida, as complainant, acting by and thru the said Railroad Commissioners and the said Attorney-General, a certain Bill of Complaint against said Railroad Company as Defendant, and wherein the relief sought was injunctions, temporary and permanent, enjoining and restraining said Railroad Company from demanding, charging or collecting on or after February 8, 1929, any rates or charges higher than the existing Intrastate Rates for the transportation of, logs, except cedar, in carload quantities, except from points of origin within the area to which this Court by its said decision, opinion and decree held "Said Order" to be applicable; and to enjoin and restrain the said Railroad Company from demanding, charging or collecting on or after February 7, 1929, in intrastate traffic, the said scale of rates prescribed by "said Order" except for the transportation, northbound, from points of origin within the area to which this court held "Said Order" to be applicable; and likewise to enjoin and restrain the said Railroad Company from demanding, charging and collecting on or after February 8th, 1929, any rates or charges higher than the existing intrastate rates on Short Lots moving intrastate in Florida between all points on the lines of said Railroad Company in Florida.

IX

That thereafter, on February 4th, 1929, the said Railroad Company filed its Petition and Bond for the removal of the said last described suit from the said State Court to the United States District Court for the Southern Dis-

trict of Florida but said State Court denied said Petition for Removal and retained jurisdiction of said cause and thereupon the said State Court issued said injunctions substantially as was prayed.

A photostatic transcript of record in said State Court Suit is herewith tendered as Exhibit B, and made a part hereof as if specifically set forth herein.

[fol. 83] X

That thereafter to-wit: on February 5, 1929, the said Interstate Commerce Commission by its order dated that day did amend "Said Order" of August 2, 1928, so that said last described order, as amended, should expressly declare that Short Logs were not within the purview thereof.

A true copy of said order is herewith tendered as Exhibit C, and made a part hereof as if specifically set forth herein.

XI

That thereafter, on February 7, 1929, the said Atlantic Coast Line Railroad Company, as Complainant, did file in the United States District Court for the Southern District of Florida, its ancillary bill of complaint wherein the said A. S. Wells, E. S. Matthews and Mamie G. Eaton, Members of the Railroad Commission of Florida, were named as defendants and wherein and whereby the said Railroad Company sought to effect a removal of said State Court suit to said United States District Court and also to enjoin the said A. S. Wells, E. S. Matthews and Mamie G. Eaton from proceeding further in the prosecution of said State Court suit; and also sought a decree of said United States District Court declaring that said injunction issued by said State Court to be null and void. And on said February 7, 1929, the said Railroad Company did present said ancillary bill to the Hon. W. B. Sheppard, Judge of the District Court of the United States for the Northern District of Florida, theretofore lawfully assigned to and sitting as Judge for the Southern District of Florida, and did move said court to issue the temporary injunctions therein prayed.

XII

That on, to-wit: February 7, 1929, the said Railroad Company did likewise file in the United States District Court for

the Northern District of Florida its original bill of complaint wherein and whereby the said Railroad Company (notwithstanding the decision, opinion and decree of this Court) did assert that the order of said Interstate Commerce Commission, dated August 2nd, 1928, require it to demand, charge and collect for the transportation of logs, except walnut, cherry and cedar, intrastate in Florida, from all points of origin on its lines in Florida, moving in all directions, the same scale of rates as were prescribed by said order of application on interstate movements on logs, ex-
[fol. 84] cept walnut, cherry and cedar, northbound, from all points of origin north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations in Georgia. And said Railroad Company in and by said Bill, among other things, prayed that the said defendants therein named be temporarily and permanently enjoined from interfering with the demanding, charging and collecting by it of the said last described rate between any point of origin on its lines in Florida and any destination on its line in Florida, in any direction.

That on the same day, to-wit, February 7, 1929, the said Railroad Company did present the last mentioned bill to the Hon. W. B. Sheppard, as Judge of said Northern District of Florida, and at the same time did move said Court to issue the temporary injunctions therein prayed.

XIV

That the said ancillary bill referred to in paragraph XI. above, and the said bill referred to in paragraph XII. above were presented to the said Judge at one and the same time; that after the filing and presentation thereof and before any orders had been made by said Court thereon the said Interstate Commerce Commission, without notice to your Orator, and without any investigation or proceeding whatsoever, did on to-wit: February 7, 1929, make and direct to be published at 10 o'clock A. M. on February 8, 1929, a certain order, wherein and whereby said Interstate Commerce Commission did so amend its said order of August 2, 1928, so that the same, as amended, required said Railroad Company to apply the scale of rates for the transportation of logs, except walnut, cherry and cedar logs and except short logs, moving in carload quantities, between all points of

origin in the State of Florida on the lines of said Railroad Company in all directions to all destinations on the lines of said Railroad Company in Florida, the same as said scale of rates prescribed by "Said Order," of August 2, 1928, for application to the transportation interstate of such logs in such quantities from points north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, north bound to destinations in Georgia.

A true copy of said Amendatory Order of February 7, 1929, is herewith tendered as Exhibit D, and made a part hereof as if specifically set forth herein.

[fol. 85] That, afterwards, to-wit: on February 8, 1929, the said ancillary bill so filed by said Railroad Company in the said United States District Court for the Southern District of Florida and the said Bill so filed by said Railroad Company in the United States District Court for the Northern District of Florida were amended by said Railroad Company and anssers and motions to dismiss were duly filed by your Petitioner to the said bill and ancillary bill as amended as aforesaid; and thereupon said United States District Courts respectively, did make and enter orders denying the said injunctions prayed by said bills, respectively, and dismissed both of said bills.

That complete copies of the record in each of said cases set forth in paragraphs numbered XI and XII are herewith tendered as Exhibit E, and F, and are made a part thereof as if specifically set forth herein.

That on February 13th, 1929, the said United States District Court for the Southern District of Florida, upon the Petition of said Railroad Company, did allow an appeal from the decree of said last described Court to the United States Circuit Court of Appeals for the 5th Circuit and the said appeal is now pending.

XV

That the purpose, intent and effect of said order of the Interstate Commerce Commission of August 2, 1928, as amended by said order of February 7, 1929, is to refute and deny the construction and limitation placed upon the said order of August 2, 1928, by this Court prior to the said amendment of February 7, 1929; and said order, as

amended as aforesaid, constitutes an attempt on the part of said Interstate Commerce Commission to fix and establish intrastate rates from all points of origin on the lines of said Atlantic Coast Line Railroad Company in Florida to all destinations on the lines of said Railroad Company in Florida in all directions.

XVI

That your Orator brings this Supplemental Bill to set forth the new facts, matters and things that have occurred and taken place since this Court's decision, opinion and decree of January 17, 1929, and to enjoin, set aside, annul and suspend report and "Said Order" of the Interstate Commerce Commission of August 2nd, 1928, as amended by the [fol. 86] order of February 7, 1929, insofar as such report and order as amended required or attempts to require the Atlantic Coast Line Railroad Company to establish, put in force and maintain rates for the transportation of logs, except walnut, cherry and cedar, in car loads, minimum weight, 40,000 in intrastate traffic "within and throughout the entire State of Florida, without exception," which shall be the same as those prescribed by said Interstate Commerce Commission as reasonable for transportation over said Atlantic Coast Line Railroad Company's lines, from points of origin in the State of Florida North of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on the said Company's lines in the State of Georgia.

That report and "Said Order" as amended as aforesaid with respect to the Florida Intrastate Rates on logs was and is arbitrary and unreasonable beyond the power of the Interstate Commerce Commission and wholly invalid and unlawful for the reasons following: among others, to-wit:

(a) Such report and "Said Order as amended as aforesaid are unlawful because under the facts of record in such proceedings before the Interstate Commerce Commission there was no constitutional right or warrant for the exercise or attempt to exercise any federal power in derogation of or superior to the power and authority of this State of Florida in respect to the regulation of intrastate commerce sought to be affected by such order.

(b) Such report and "Said Order as amended as aforesaid are unlawful because there was no substantial evidence before the Interstate Commerce Commission, nor did that tribunal find that there was any substantial evidence before it showing or tending to show that there was or could be any undue or unjust preference or advantage of Florida shippers or communities, or any undue or unjust prejudice or disadvantage of Georgia shippers in violation of Section 3 and 13 of the interstate commerce act.

(c) Such report and "Said Order" as amended as aforesaid are unlawful because the Interstate Commerce Commission has thereby sought to regulate internal concerns of the State of Florida as if unjust discrimination against interstate commerce in violation of Section 13 existed when there was not submitted to the Interstate Commerce Commission by any party to the proceedings before it any case or controversy of such character, and there was no other [fol. 87] pending proceeding or order of investigation of such Commission involving any such subject matter.

(d) Such report and "Said Order" as amended as aforesaid are unlawful because there were no facts of record in such proceeding before the Interstate Commerce Commission showing, or tending to show, nor did the Interstate Commerce Commission find any facts sufficient to constitute unjust discrimination against interstate commerce in violation of the provisions of Section 13 of the Interstate commerce act.

(e) Such report and "Said Order" as amended as aforesaid are unlawful because thereby the Interstate Commerce Commission has sought to embrace within the scope thereof all rates of the Atlantic Coast Line Railroad Company on logs between any stations on its line wholly within the State of Florida for any length of haul, and in any portions of such State, although there was no case or controversy submitted to that tribunal or pending before it involving in any way freight rates of the Atlantic Coast Line Railroad on logs within Florida except for hauls of 170 miles and less over such railroad and except for hauls of such length over such railroad wholly within the so-called northern portion of the State. Furthermore, there was no substantial evidence in such proceedings before the Interstate Commerce

Commission showing or tending to show that all freight rates of the Atlantic Coast Line Railroad Company on logs over any portion of its line, wholly within the State of Florida, violated or would violate either Section 3 or Section 13 of the Interstate Commerce Act. Therefore, such order unlawfully embraces with in its territorial scope freight rates on logs between points within the State of Florida, as to which no case or controversy was submitted to the Interstate Commerce Commission and as to which no substantial evidence was directed.

(f) The said action of said Interstate Commerce Commission Constitutes an unlawful invasion of the sovereign rights of the State of Florida reserved to it by the Constitution of the United States and of the citizens of said State of Florida, and is without any warrant or authority of or under the Constitution of the United States; and further, that the same Commission was and is without jurisdiction to enter its said order.

[fol. 88] (g) The said action of said Interstate Commerce Commission constitutes an unlawful exercise of power by the Interstate Commerce Commission and is without warrant or authority of or under the Constitution of the United States.

Forasmuch, therefore, as your Orator is without remedy save in the Court of Equity and to the end that the Defendants, the United States of America and the Interstate Commerce Commission, and the Intervenor, Georgia Public Service Commission, and each of them, may, if they can show why your Orator should not have the relief herein prayed, and may full, true, direct and perfect answers make to this Supplemental Bill, to the best and utmost of their respective knowledge, remembrance, information and belief to each and every of the matters and things herein set forth, as ff specifically interrogated,

Your Orator would therefore pray:

First. That process may issue against the Defendants United States of America and the Interstate Commerce Commission and the Intervenor, Georgia Public Service Commission with service thereof and of this Supplemental

Bill in the manner prescribed by statute in such cases made and provided.

Second. That this Honorable Court will grant your Orator an interlocutory order enjoining, setting aside, annulling and suspending the enforcement of such part or parts of the order of the Interstate Commerce Commission of August 2nd, 1928, as amended February 7, 1929, that required or attempted to require the Atlantic Coast Line Railroad a common carrier, subject to the jurisdiction of the administration regulatory commission of the State of Florida to establish, put in force and maintain rates for the transportation of logs, except walnut, cherry and cedar, in car loads, minimum weight, 40,000 in intrastate traffic within and throughout the entire State of Florida, without exception, which are the same as those prescribed by said Interstate Commerce Commission in said Order of August 2nd, 1928, as reasonable for transportation in Interstate Commerce, north bound from points of origin on the Atlantic Coast Line in Florida, north of and including [fol. 89] Jacksonville, Gainesville, Burnett's Lake and High Springs, to destinations on said company's lines in the State of Georgia, without first having the authority of the State of Florida so to do; and that such interlocutory order continue in force and effect until further order of this Court.

Third. That upon final hearing there will be made and entered a decree and order of this Court enjoining, setting aside, annulling and suspending that portion of the order the Interstate Commerce Commission entered by it on August 2nd, 1928, in Docket #18364 entitled Georgia Public Service Commission versus the Atlantic Coast Line Railroad (146 I. C. C. 717) as amended by said Interstate Commerce Commission, by its order of February 7, 1929, and by which said Interstate Commerce Commission required the Atlantic Coast Line Railroad Company to establish, put in force and maintain rates for the transportation of logs, except walnut, cherry and cedar, in car loads, minimum weight, 40,000 in intrastate traffic within and throughout the entire State of Florida, without exception, which shall be the same as those prescribed in said order of August 2, 1928, by said Interstate Commerce Commission in a preceding paragraph thereof, as reasonable for trans-

portation in Interstate Commerce north bound from certain designated points in the State of Florida to destinations in the State of Georgia.

Fourth: That your Orator may have such, every and further relief in the premises as to this Honorable Court shall seem meet and proper, and as equity and good conscious may require.

And your Orator would therefore pray, etc.

The State of Florida, by Doyle E. Carlton, Governor.

[fol. 90] A. S. Wells, E. S. Matthews, Mamie G. Eaton, as and consisting the Railroad Commissions of the State of Florida. For the State of Florida: Fred H. Davis, Attorney-General of Florida; Theo. T. Turnbull, Special Counsel for Florida Railroad Commission, Solicitors for Complainant.

[fol. 91] *Duly sworn to by A. S. Wells. Jurat omitted in printing.*

[fol. 92] EXHIBIT A TO SUPPLEMENTAL BILL

BEFORE THE RAILROAD COMMISSIONERS OF THE STATE OF FLORIDA

Order No. 979

Changes in Intrastate Rates on Logs Except Walnut, Cherry, and Cedar, from and to Certain Points in the Northern Part of Florida Pursuant to decision of Federal Court.

Issued January 30, 1929. Effective January 30, 1929

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1. This order is made in view of impending changes in certain intrastate rates on logs in carloads from and to certain points on Atlantic Coast Line Railroad within the State of Florida, which changes in rates have been filed

with the Interstate Commerce Commission in the following schedules to become effective on February 8, 1929:

Agent Glenn's Southern Lumber Tariff, I. C. C. A-659, Supplements 10, 12, 13, 15 and 16;
Agent Glenn's Port Lumber Tariff, I. C. C. A-647, Supplements 8, 9, 11, 13 and 14;
Atlantic Coast Line Railroad Company's Florida local tariff No. 20, I. C. C. B-2466, Supplements 4, 5, 6 and 7,

including specific items which purport to be issued in compliance with the orders of the Interstate Commerce Commission in its Docket Number 18364. The purpose of this order is to amend the Florida intrastate rates to conform to the orders of the Interstate Commerce Commission in Docket 18364 as construed and defined by the District Court of the United States for the Northern District of Georgia, Atlanta Division, in equity, in its opinion dated January 17, 1929.

2. Whereas the said schedules would have the effect of increasing the rates on logs of various kinds and other various description between points on the Atlantic Coast Line [fol. 93] Railroad thruout the entire state of Florida without submitting the proposed increased rates to the Railroad Commissioners and receiving their approval as provided in General Rule No. 7 in Section 1 of the Rules and Regulations of the Railroad Commissioners of the State of Florida and without a determination of such submission or application by the Railroad Commissioners as provided in Section 6730 of the Compiled General Statutes and Section 4644 of the Revised General Statutes of 1920, which said submission, application, approval and determination must be procured before any increases or changes can lawfully be made in any existing intrastate rates or charges for transportation subject to the jurisdiction of the railroad commissioners of Florida.

3. Whereas the said tariffs and schedules insofar as they name increased rates on logs, or cancel existing rates on logs of various kinds and descriptions including veneer blocks or bolts namely logs less than six feet in length, between points thruout the state of Florida on the lines of the Atlantic Coast Line Railroad Company purport to be

issued in compliance with orders of the Interstate Commerce Commission in its Docket No. 18364, Georgia P. S. Commission v. A. C. L. R. R. Co. 146 I. C. C. 717;

4. Whereas the District Court of the United States for the Northern District of Georgia, Atlanta Division, in equity, in its opinion dated January 17, 1929, has construed and defined, for the purpose of rendering valid, the said order of the Interstate Commerce Commission in the said Docket Number 18364 as being limited in its territorial scope insofar as it prescribes intrastate rates on logs to those rates which apply on logs except walnut, cherry and cedar from points on Atlantic Coast Line Railroad's lines in Florida north of and including Jacksonville, Gainesville, Burnett's Lake, and High Springs, in one direction north bound for distances not in excess of 170 miles; and whereas [fol. 94] the said schedules above named in Paragraph 1 hereof are not limited or restricted in accordance with the said special Federal Court's construction and definition of the said order of the Interstate Commerce Commission in its Docket No. 18364; and

5. Whereas it is deemed necessary in the public interests that the Railroad Commissioners of the State of Florida defined the extent, if any, to which the intrastate rates on logs in Florida will or may be changed on February 8, 1929, by virtue of the filing and publishing of the tariffs and schedules named in Paragraph 1 hereof with the Interstate Commerce Commission;

6. It is hereby ordered that the present intrastate rates on logs of all kinds and descriptions including veneer blocks, bolts, or short logs which are in effect and lawfully published as required under the laws of the State of Florida and the regulations of the Railroad Commissioners of the State of Florida on the date of this Order shall remain in full force and effect on and after February 8, 1929, until further Order of the said Railroad Commissioners of the State of Florida, notwithstanding the changes proposed to become effective on February 8, 1929, in the schedules and tariffs named in Paragrph 1 hereof; except that, so long as the said decision of the said Federal Court shall or may remain in force and unreversed, the said schedules and tariffs will, under authority of the Interstate Commerce

Commission, have the effect of changing and increasing only and solely the intrastate rates under the following tariff description "logs, except cedar, cherry and walnut logs, carload minimum weight 40,000 pounds", (this description does not include bolts, i. e. logs not over six feet in length) for distances not exceeding 170 miles only in one direction namely north bound to destinations in Florida on [fol. 95] the direct short line routes of the Atlantic Coast Line Railroad from the list of stations hereinafter named on the lines extending from High Springs, Florida, thru Baker's Mill, Florida, to and beyond DuPont, Georgia, and on the line extending northward from Gainesville, Florida, thru Burnett's Lake and thru Jacksonville to and beyond Folkston, Georgia, viz:

Points of Origin

Boulogne, Andrews, Hillard, Dual, Callahan, Ratliff, Cary, Dinsmore, Pickett, Jacksonville;

Baker's Mill, Jasper, Marion, Suwanee, Rixford, Live Oak, Padlock, Pine Mount, McAlpin, O'Brien Branford, Harvard & Groover, Thompson's Spur, Hildreths, Fort White, High Springs;

Herlong, Shelton, Columbia, Lake City,

East Alachua, Burnett's Lake,

Hague, Gracys, Paradise, T. & J. Crossing, Gainesville,

Florida Transfer, Valdosta Crossing, Cambon, Deeville, Baldwin, Mattox, McPherson, La Buena, Stockert, Manning, Sapp, Harrah, Ellarbee, Raiford, Johnstown, Lake Butler, Townsend's Still, Putnam, Dukes, Munich, Worthington Springs, Santa Fe, Haynesworth, Burnett's Lake and Alachua.

(NOTE.—These stations are named in the Glenn Tariff, I. C. C. A-659, page 414, note A.)

The jurisdiction of the Interstate Commerce Commission over the rates named in the exception above described has been upheld under the decision of the Federal Court, thus superseding the laws of the State of Florida and the regulations of the Railroad Commissioners of the State of Florida.

7. Ordered further that counsel for the Railroad Commissioners for the State of Florida be and is hereby au-

thorized and directed to take such steps as may be or may become necessary to preserve the existing intrastate rates on logs of all kinds and descriptions and the rates on veneer [fol. 96] blocks, bolts or short logs, which are lawfully in effect between all points in the State of Florida, so that the same shall remain in full force and effect on and after February 8, 1929, notwithstanding the filing of the tariffs and schedules named in Paragraph 1 hereof with the exception of the intrastate rates on logs except cherry, walnut and cedar from the points specified in Paragraph 6 hereof as prescribed by the Interstate Commerce Commission and upheld by the decision of the Federal Court as described in Paragraph 6.

8. Done and ordered by the Railroad Commissioners of the State of Florida in session at their office in the City of Tallahassee, Florida, this 30th day of January, 1929.

Railroad Commissioners of the State of Florida.
(Signed) A. S. Wells, Chairman. (Seal.)

[fol. 97] Exhibit "B" to Supplemental Bill

In the Circuit Court in and for Duval County, Florida

In Chancery

State of Florida, Complainant,

vs.

Atlantic Coast Line Railroad Company, a Corporation, Defendant

Petition for Removal of the Above-stated Cause to the United States District Court for the Southern District of Florida

To the Honorable the Circuit Court in and for Duval County, Florida:

Your petitioner, Atlantic Coast Line Railroad Company, respectfully shows that it is the defendant in the above entitled suit and that your petitioner is a corporation under the laws of the State of Virginia and is therefore a resident

and citizen of the State of Virginia; that the above entitled cause is a suit in equity and that the amount involved exceeds exclusive of interest and costs the sum or value of Three Thousand ($3,000) Dollars.

Petitioner's petition alleges in substance as follows:

That long prior to May 3, 1926 there was in effect from all stations on petitioner's lines of railroad in Florida to all stations on its lines in Florida a certain special distance scale of commodity rates for the transportation of logs. Said scale was duly filed in pursuance of the laws of Florida in the year 1914.

[fol. 98] That on May 3, 1926 there was established a certain other scale of rates on logs of ash, gum, hickory, oak, pine and cypress not exceeding six feet in length; that this scale was duly filed and established pursuant to law and is in force and effect throughout the State of Florida.

That on May 3, 1926, the State of Georgia, acting through the Georgia Public Service Commission, filed with the Interstate Commerce Commission of the United States a certain complaint against the Atlantic Coast Line Railroad Company, in which complaint it was alleged that the existing rates on logs in carloads to named points in Florida on certain of this petitioner's lines then existing to certain destinations on this petitioner's lines in Georgia, were unjust and unreasonable, and that as compared with the Florida intrastate scale were unjustly discriminatory and unduly prejudicial, and that the Florida intrastate scale was then and there unduly preferential of intrastate shippers in Florida, unduly prejudicial to interstate shippers from Florida to Georgia and unduly discriminatory against interstate commerce, and that in said complaint the Georgia Public Service Commission sought the establishment of reasonable non-prejudicial and non-discriminatory rates for future use, and that after hearing, certain rates were established by the Interstate Commerce Commission to apply to the transportation of logs except walnut, cherry and cedar in carloads from points on the lines of your petitioner in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its line in the State of Georgia, and that the Inter-[fol. 99] state Commerce Commission notified your petitioner to cease and desist from practicing certain alleged

undue prejudices and unjust discriminations found in said decision to exist in the relation of interstate and intrastate rates, and to put in and maintain rates for the transportation of logs except walnut, cherry and cedar in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida which should be the same as those prescribed by said order as reasonable for transportation in interstate commerce.

That this petitioner, purporting to comply with the decision and order of the said Commission, filed with the said Commission a certain supplement to its tariff, wherein this petitioner purported to cancel the Florida intrastate scale on all of its lines in the State of Florida, and that this petitioner did, purporting to comply with the said decision and order of the Interstate Commerce Commission, likewise file with the said Commission its other supplement to Florida Local Tariff No. 20 I. C. C. B-2466, wherein it purported to make effective as of October 10, 1928 between all points on all of its lines in intrastate traffic within the State of Florida the same rates which were prescribed by the said order of the said Interstate Commerce Commission for application from points on the lines of the defendant in the State of Florida North of and including Jacksonville, Burnett's Lake, Gainesville and High Springs to destinations on its lines in the State of Georgia; that the effective dates of the order and of the alleged cancellation of the Florida intrastate scale and the alleged application of the new rates were postponed to February 8, 1928 and that [fol. 100] thereafter a bill was filed in the United States District Court for the Northern District of Georgia, Atlanta Division, by the State of Florida against the United States of America and the Interstate Commerce Commission, wherein the State of Florida sought to enjoin and set aside so much of the said order of the Interstate Commerce Commission as required petitioner to establish and put in force rates on logs in intrastate commerce in the State of Florida, and that there was a trial thereon before three judges constituting said court, and the court rendered its decree on January 17, 1929 and that it rendered an opinion and by its opinion the Court construed and defined the order of the Interstate Commission so sought to be enjoined and

set aside, as being limited in its scope in so far as it prescribed intrastate rates to rates on logs except walnut, cherry and cedar, from points on petitioner's lines in Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs in one direction north bound for distances not exceeding one hundred and seventy (170) miles, and found that said order in no way affected any intrastate rates upon logs from any other points of origin moving in any other direction.

That the Court, by its opinion having so limited the scope, operation and effect of the order of the Interstate Commerce Commission, entered a decree dismissing the bill of the State of Florida.

The Veneer Block Scale (short log rate) is published by this petitioner in its Florida Intrastate Tariffs No. 20, I. C. C. B-2466, and that in supplements 4, 5, 6 and 7 filed with the Interstate Commerce Commission prior to October [fol. 101] 5, 1928 to become effective on October 10, 1928, and subsequently postponed to become effective on February 8, 1929, this petitioner attempts to cancel out the Veneer Block Scale and substitute therefor another and higher scale; and that the said Veneer Block Scale was not in issue before the Interstate Commerce Commission.

The petition sets out certain rules of the Florida Railroad Commission, No. 7 and No. 16, which prevent increasing of railroad rates except upon approval of the Railroad Commissioners of Florida, and which undertake to prevent the discontinuance of rates, facilities and services except upon like consent, and that this petitioner has not filed with the Railroad Commissioners any proposed change, increase or reduction of the said Florida intrastate scale, or of the said Veneer Block scale.

The complainant then alleges in substance that no rate from any point of origin or station on the line of this petitioner was affected by the order of the Interstate Commerce Commission as construed and limited by the United States District Court, except rates on logs other than logs not over six feet in length and other than cedar logs, from points of origin north of and including High Springs, Florida, situated upon the lines of this petitioner and extending northwardly from High Springs, Florida, through Baker's Mill, Florida, to and beyond Du Pont, Georgia, and

except from points of origin north of and including Gainesville, Florida, situate upon the lines of the said defendant which extends northwardly from Gainesville, Florida [fol. 102] through Burnett's Lake and through Jacksonville, Florida to and beyond Folkston, Georgia.

That this petitioner has failed and refused to modify its tariffs filed with the Interstate Commerce Commission in compliance with the decision of the United States District Court.

Attached to this petition is an order with an exhibit, purporting to be order No. 979 of the Railroad Commissioners of the State of Florida, which order alleges in substance that in view of impending changes in intrastate rates on logs in carloads from and to certain points on the Atlantic Coast Line Railroad in Florida, which changes in rates have been filed with the Interstate Commerce Commission to become effective on February 8, 1929, as shown by certain tariffs therein described—that the purpose of the order of the Florida Commission is to amend the Florida intrastate rates to conform to the orders of the Interstate Commerce Commission hereinbefore referred to.

After making recitations, the Florida Commission purports to order that the present intrastate rates on logs of all kinds and description including veneer blocks, bolts or short logs which are in effect and lawfully published under the laws of the State of Florida and the regulations of the Railroad Commissioners of Florida, on the date of this order shall remain in full force and effect on and after February 8, 1929, until further order of the said Railroad Commissioners of the State of Florida, notwithstanding the changes proposed to become effective on February 8, 1929 in the schedules and tariffs named in paragraph 1 of the [fol. 103] said order, which said schedules and tariffs are those which have been filed with the Interstate Commerce Commission. The order then makes certain exceptions purporting to delimit and define the territory in which the Interstate Commission's order is effective in the State of Florida.

This petitioner seeks to have the aforementioned suit removed to the United States District Court for the Southern District of Florida for that:

(1) It is a suit of a civil nature in equity, wherein the matter in controversy exceeds exclusive of interest and costs the sum or value of Three Thousand ($3,000) Dollars and arises under the Constitution or laws of the United States;
and for that:

(2) It is a suit in equity brought to enjoin, set aside, annul or suspend in whole or in part an order of the Interstate Commerce Commission.

This suit thus sought to be removed is one in which the United States District Court has original jurisdiction. The questions which arise under the Constitution or laws of the United States appear from the facts pleaded in the said petition and hereinbefore referred to, in this, that:

(a) The petition shows that it is an effort to limit the operation of an order of the Interstate Commerce Commission therein referred to, both in its territorial scope and in the subject matter of its application, and thereby in effect to set aside, annul or suspend in part the order of the Interstate Commerce Commission there referred to;

[fol. 104] (b) The effect of the suit is in fact to completely annul the order of the said Commission, for if limited and construed as contended for, there would be no subject matter left for operation; and to annul in whole or in part tariff and rates and rate schedules lawfully filed by this petitioner with the Interstate Commerce Commission.

(c) The suit undertakes to construe and apply the order of the Interstate Commerce Commission and, as thus construed by the Florida Railroad Commissioners, to rely thereon;

(d) The petition undertakes to construe and apply and limit the order of the Interstate Commerce Commission as to territory and as to commodities; and as thus construed by the Florida Railroad Commissioners to rely thereon;

(e) The suit undertakes to construe and to apply an opinion of the United States District Court for the Northern District of Georgia, which is referred to therein and to rely thereon;

(f) That a construction and limitation and annulment of the order of Interstate Commerce Commission is sought without having applied to a Commission, and the construction of the opinion of the United States District Court for the Northern District of Georgia is sought without having applied to said Court.

(g) That the suit is an effort to deprive this petitioner of rights conferred upon it by order of the Interstate Commerce Commission, acting under and in pursuance of the terms of an Act of Congress known as the Interstate Commerce Act, approved February 4, 1887 and its various amendments, and especially including Section 13, Subsection 4 thereof, and to deprive your petitioner of rights conferred by said order and by the Interstate Commerce Clause of the United States Constitution and laws enacted in pursuance thereof. The purpose of the suit is to rely upon and use an opinion of the United States District Court for the Northern District of Georgia, which opinion is not a decree, but which Court rendered a decree denying to the Railroad Commission of Florida the relief which it prayed [fol. 105] in its bill in which said decree was rendered; and to do this without applying to and outside of said cause and outside of the jurisdiction which rendered the same, to-wit., the jurisdiction of the United States.

2

For that the controversy is between citizens of different states. The State of Florida has no real interest in the controversy; it will receive no financial benefit therefrom; the results of the litigation will not inure to the benefit of the State in any degree; it is a suit concerning rates on the carrying of commodities by a railroad. The controversy is between A. S. Wells, E. S. Matthews and Mamie C. Eaton, who are members of the Railroad Commission of the State of Florida, and who are residents and citizens of the State of Florida, on the one hand, and the Atlantic Coast Line Railroad Company on the other; the Atlantic Coast Line Railroad Company being at the time of the filing of said suit and at all times since a Corporation under the laws of Virginia.

Your petitioner shows that at the time the said suit was filed, the citizenship of the parties was as herein stated, and that status of citizenship has remained.

Your petitioner offers herewith a bond with good and sufficient security, conditioned for your petitioner's entering a certified copy of the record in the Circuit Court of the United States for the Southern District of Florida within the time required by law, and for paying all costs that may be awarded by the said United States District Court, if said Court shall hold that this suit is wrongfully or improperly removed thereto.

This petition is filed before the petitioner is required by the laws of the State of Florida or the rules of the Circuit Court for Duval County, Florida to answer or plead to the complaint of the plaintiff. Written notice of the petition [fol. 106] for removal has been given to the adverse parties prior to filing this petition.

Your petitioner, therefore, prays this honorable Court to proceed no further in said suit except to make an order of removal thereof, as required by law, and to accept the said surety and bond and to cause the record in said suit to be removed to the United States District Court for the Southern District of Florida, according to the Statutes in such cases made and provided, and your petitioner will ever pray.

Atlantic Coast Line Railroad Company, by R. C. Alston, by Daggett & Daggett, its Solicitors.

[fol. 107] STATE OF FLORIDA,
County of Duval:

J. W. Perrin, being duly sworn, on oath deposeth and saith that he is Asst. Freight Traffic Manager of the Atlantic Coast Line Railroad Company, defendant in the aforesaid bill of complaint mentioned in the foregoing petition; that he has read the foregoing petition, knows the contents thereof and the matters and things therein mentioned are true, as he verily believes.

J. W. Perrin.

Sworn to and subscribed before me, this the 2 day of February, 1929. A. B. Weil. (Seal.)

[fol. 108] Copy

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA IN AND FOR DUVAL COUNTY

In Chancery

STATE OF FLORIDA, Complainant,

vs.

ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Defendant

Order

This cause coming on to be heard upon the petition of defendant for removal to the Federal Court, and the same having been argued and submitted, it is, upon consideration, ordered, adjudged and decreed that said petition for removal be, and the same is hereby denied.

Done and ordered at Chambers, Jacksonville, Florida, this 4th day of February, A. D. 1929.

(Signed) De Witt T. Gray, Judge.

[fol. 109] IN THE CIRCUIT COURT IN AND FOR DUVAL COUNTY, FLORIDA

In Chancery

THE STATE OF FLORIDA, Complainant,

vs.

ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Defendant

This cause came on to be heard upon application for temporary injunction after due notice and upon the affidavits in support thereof and upon consideration the court being advised in the premises, it is, thereupon, ordered, adjudged and decreed:

1. That the defendant Atlantic Coast Line Railroad Company, its agents, servants, employees and attorneys be and the same are hereby each jointly and severally restrained and enjoined forthwith from demanding, charging, or col-

lecting on or after February 8, 1929, any rates or charges higher than those in the scale of rates hereinafter set forth in this paragraph numbered 1 which are specified for the transportation of logs (other than cedar logs, and other than logs not over 6 feet in length) in carload quantities moving intrastate in Florida for distances up to but not exceeding 170 miles from any point of origin, on its lines in Florida to any destination on its lines in Florida except for transportation northbound from points of origin north of and including Burnett's Lake, Florida, situated upon the line of said defendant, which extends northwardly from said Burnett's Lake, Florida, through High Springs, Florida, through Baker's Mill, Florida to and beyond Dupont, Georgia, and except for transportation northbound from points of origin north of and including Gainesville, Florida, upon the line of the defendant which extends northwardly from Gainesville, Florida, through Burnett's Lake, Florida, and through Jacksonville, Florida, to and beyond Folkston, Georgia, said scale of rates is as follows: [fol. 110] Logs, carload, except cedar logs, per car 50,000 pounds, excess in proportion, cars to be loaded and unloaded by owner and not to be unloaded on the railroad right of way:

From A. C. L. R. R. Stations in Florida to A. C. L. R. R. Stations in Florida

For distances of

40 miles and under	955 cents
60 miles and over 40 miles	1050 cents
90 miles and over 60 miles	1150 cents
100 miles and over 90 miles	1300 cents
110 miles and over 100 miles	1400 cents
130 miles and over 110 miles	1600 cents
160 miles and over 130 miles	1700 cents
170 miles and over 160 miles	1850 cents

3. That the defendant Atlantic Coast Line Railroad Company, its agents, servants, employees and attorneys be and the same are hereby each jointly and severally restrained and enjoined forthwith from demanding, charging, or collecting on, or after February 8th, 1929, any rates or charges higher than those specified in the scale of rates hereinafter

specified in this paragraph numbered 2 for the transportation of hickory, ash, oak, pine, gum and cypress logs not over 6 feet in length in carload quantities moving intrastate in Florida on the line of said defendant in Florida, said scale of rates in this paragraph numbered 2 is as follows: Logs, viz., ash, gum, hickory, oak, pine and cypress, not over 6 feet in length, per car forty thousand pounds excess in proportion:

Distances	Rate
5 miles and under	855 cents
10 miles and over 5	855 cents
20 miles and over 10	950 cents
30 miles and over 20	1100 cents
40 miles and over 30	1150 cents
50 miles and over 40	1300 cents
60 miles and over 50	1400 cents
70 miles and over 60	1500 cents
80 miles and over 70	1600 cents
90 miles and over 80	1700 cents
100 miles and over 90	1800 cents
110 miles and over 100	1850 cents
120 miles and over 110	2000 cents
125 miles and over 120	2050 cents
140 miles and over 135	2150 cents
[fol. 111]	
150 miles and over 140	2200 cents
160 miles and over 150	2300 cents
170 miles and over 150	2500 cents
200 miles and over 160	2500 cents
220 miles and over 200	2600 cents
240 miles and over 220	2700 cents
260 miles and over 240	2750 cents
280 miles and over 260	2850 cents
290 miles and over 280	2900 cents
320 miles and over 290	2950 cents
330 miles and over 320	3050 cents
340 miles and over 330	3100 cents
360 miles and over 340	3150 cents
370 miles and over 360	3200 cents
380 miles and over 370	3300 cents
400 miles and over 380	3350 cents

3. That the said injunctions and restraining orders hereinabove set forth each and every shall be and remain in force and effect pending this suit and until the further order of this court.

Done and ordered at Jacksonville, in Duval County, Florida, in Chambers, this February 4th, A. D.1929.

(Signed) De Witt T. Gray, Circuit Judge.

[fol. 112] Exhibit "C" to Supplemental Bill

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 5th day of February, A. D., 1929.

No. 18364

Georgia Public Service Commission

v.

Atlantic Coast Line Railroad Company

Upon further consideration of the record in the above-entitled proceeding, and for good cause shown:

It is ordered, That the order heretofore entered in this proceeding on August 2, 1928, be, and it is hereby, amended as follows: By inserting after "logs, except walnut, cherry, and cedar" in the second, third, and fourth paragraphs of said order the following: "and except ash, gum, hickory, oak, pine, and cypress logs not over six feet in length."

It is further ordered, That in all other respects said order shall remain in full force and effect.

By the commission, division 4.

George B. McGinty, Secretary. (Seal.)

[fol. 113] Exhibit "D" to Supplement Bill

Order

At a Session of the Interstate Commerce Commission, division 4, held at its office, in Washington, D. C., on the 7th day of February, A. D., 1929.

No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

v.

ATLANTIC COAST LINE RAILROAD COMPANY

Upon further consideration of our order heretofore entered in this proceeding on August 2, 1928, as amended by orders entered August 27th, October 19th, and November 30th, 1928, and February 5, 1929, and because of doubt that has arisen as to the territorial limits intended to be covered by that portion of said order of August 2, 1928, as amended, prescribing intrastate rates within the State of Florida:

It is ordered, That the said order of August 2, 1928, as amended, be, and it is hereby, changed in language for the purpose of clarification as follows: In the fourth paragraph of said order of August 2, 1928, substitute for "within the State of Florida" the following: "Within and throughout the entire State of Florida, without exception."

By the Commission, Division 4.

George B. McGinty, Secretary. (Seal.)

[fol. 114] EXHIBIT "F" TO SUPPLEMENTAL BILL

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF FLORIDA

In Equity

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

vs.

A. S. WELLS, E. S. MATTHEWS, and MAMIE G. EATON, Defendants

To the Honorable the Judges of the United States District Court for the Northern District of Florida:

Now comes Atlantic Coast Line Railroad Company, and humbly complaining, brings this, its Bill in Equity, against

A. S. Wells, E. S. Matthews and Mamie G. Eaton, who are the Railroad Commissioners of the State of Florida, and respectfully avers:

1st. Complainant is a corporation, created and existing under the laws of the State of Virginia, a citizen of the State of Virginia, doing business as a Common carrier by railroad in the State of Florida, pursuant to the laws of Florida.

2nd. The Defendants, A. S. Wells, E. S. Matthews and Mamie G. Eaton, are residents and citizens of the State of Florida (the said Wells residing in Leon County, the said Matthews in Bradford County and said Eaton in Jefferson County), they are the sole members of the Railroad Commission of the State of Florida and the official residence of each of the said Defendants is in the Northern [fol. 115] District of Florida.

3rd. This is a suit of civil nature in equity, and arises under the constitution and laws of the United States, and is between citizens of different states, and the matter in controversy exceeds, exclusive of interest and costs, the sum or value of $3,000.00.

4th. That there was established under and pursuant to the laws of the State of Florida, prior to May 3rd, 1926, certain rates on logs, which rates were effective August 24th, 1925, as follows:

Logs, carload, except cedar logs, per car 50,000 pounds, excess in proportion. Cars to be loaded and unloaded by owner and not to be unloaded on the railroad right-of-way:

From A. C. L. R. R. Stations to A. C. L. R. Stations

Distance	
40 miles and under	$8 55 per car
60 miles and over 40 miles	10 50 per car
90 miles and over 60 miles	11 50 per car
100 miles and over 90 miles	13 00 per car
110 miles and over 100 miles	14 00 per car
130 miles and over 110 miles	16.00 per car
160 miles and over 130 miles	17 00 per car
170 miles and over 160 miles	18 50 per car

5th. On the 3rd day of May, 1926, the Georgia Public Service Commission, created under the Laws of the State of Georgia, brought its petition in the Interstate Commerce Commission, against the Atlantic Coast Line Railroad Company, in this it is alleged that the object of this complaint is to secure reasonable rates on logs from all [fol. 116] points on the Atlantic Coast Line Railroad Company, as hereinafter shown, within the State of Florida, to all destinations on the said Atlantic Coast Line Railroad Company, in the State of Georgia, and to remove any unjust discrimination or undue prejudice as found to exist, as provided in the Interstate Commerce Act.

The petition alleged that certain then existing rates on logs in carloads from named points in Florida on this complainant's lines to certain destinations on this complainant's lines in Georgia were unjust and unreasonable.

6th. The members of the Florida Railroad Commission appeared in said cause in defense of the Florida Intra-state rates, which were complained of and otherwise participated in the said proceedings, especially by filing with the said Interstate Commerce Commission a petition for reargument and reconsideration, which said petition was dated the 27th day of September, 1928.

7th. Other parties intervened in the said cause, a great deal of evidence was taken by the Interstate Commerce Commission, the said evidence being taken orally by the examination of many witnesses, the hearing lasted for several days. The evidence was taken at Valdosta, Georgia, on October 20th, 21st and 22nd, 1926, and again at Jacksonville, Florida, on January 19th, *19th*, 20th and 21st, 1927.

8th. The Interstate Commerce Commission rendered its report and entered its order at a session held on the 2nd day of August, 1928, a copy of said report and order is [fol. 117] hereto attached and marked Exhibit No. 1, reference to which as often as may be necessary, is prayed.

9th. By the said order this complainant was required to establish on or before October 10th, 1928, upon notice to the Interstate Commission and to the general public, by not less than five days filing and posting in the manner described in Section 6 of the Interstate Commerce Act, and

thereafter to maintain and apply to the transportation of logs, except Walnut Cherry and Cedar, in carloads, from points on its lines in the State of Florida, North of and including, Jacksonville, Gainesbille, Burnett's Lake, and High Springs to destination on complainant's lines in the State of Georgia, certain rates in said order specified.

10th. Complainant was further ordered and required "to cease and desist from practicing the undue preference and advantage, undue prejudice, and unjust discrimination, found in said report to exist in the relation of Intra-State and Interstate rates, and to establish, put in force, and maintain rates for the transportation of lots, except Walnut, Cherry and Cedar, in carloads, minimum 40,000 pounds, in Intra-state Commerce within the State of Florida, which shall be the same as those prescribed in the next preceding paragraph hereof, as reasonable for transportation in Interstate Commerce from points in the State of Florida to destination in the State of Georgia."

11th. The rates prescribed by the Interstate Commission in the aforementioned report and order, were higher than [fol. 118] those which had been previously in existence for intrastate commerce in Florida, between points of origin and destination on the lines of this complainant.

12th. Prior to October 5, 1928, this complainant, in compliance with the report and order of the Interstate Commerce Commission aforementioned, filed with the Interstate Commerce Commission its Supplement No. 10 to J. H. Glenn's Agent's Southern Lumber Tariff I. C. C. A-659, wherein and whereby complainant cancelled the Florida Intrastate rates on logs mentioned therein applying on all of its lines within the State of Florida, and complainant did likewise file with the said Interstate Commerce Commission its Supplement 4 to Florida Local Tariff (No. 20) I. C. C. B-2466, wherein and whereby it purported to make effective as of October 10, 1928, between all points on all of its lines, in intrastate traffic within the State of Florida, the rates prescribed by the said Interstate Commerce Commission in its said order.

13th. The said tariffs have been filed and published more than the time prescribed by the Commission's order and by

the requirements of said paragraph 6 of the Interstate Commerce Act, and have long since become the lawfully filed tariffs governing the said intrastate transportation of logs in the State of Florida, from all points of origin to all points of destination on the lines of complainant in Florida; but by various orders of the Interstate Commerce Commission, the date of application of the said rates has been postponed to the 8th day of February, 1929. Said tariffs cover all intrastate movements of logs over the lines of the Atlantic Coast Line Railroad in Florida, except certain logs which are known as "short logs"; that is logs not over six feet in length and of certain kinds, all of which is more fully set out in the tariffs governing the movements of such short logs.

[fol. 119] Complainant is informed and believes, and on information and belief alleges, that said "short logs" were excluded from the operation of said order of the Interstate Commerce Commission dated August 2, 1928, by an order of the Interstate Commerce Commission entered on February 5, 1929, which the Complainant is informed and believes reads as follows, to-wit:

"Upon further consideration of the record in the above entitled proceeding in and for good cause shown;

It is ordered, that the order heretofore entered in this proceeding on August 2, 1928, be and is hereby amended as follows:

By inserting after 'logs except walnut, cherry and cedar' in the second, third and fourth paragraphs of said order the following: 'and except ash, gum, hickory, oak, pine and cypress logs not over six feet in length.'

It is further ordered that in all other respects the said order shall remain in full force and effect."

Referring to which Complainant avers that it expressly reaffirms the prior order of the Interstate Commerce Commissio*j*, and there is no longer any doubt or question about the log rates to be charged on all classes of log transportation, in so far as the same is covered by the order of said Commission amended as above, and that the same has force and effect to prescribe, as the Interstate Commerce Commission has done, all rates, whether relating to inter or intrastate

traffic, throughout the State of Florida, and the same is the law by which everyone must be bound.

[fol. 120] 14th. On or about November 27, 1928, the State of Florida and A. S. Wells, E. S. Matthews and Mamie G. Eaton, as and constituting the Florida Railroad Commission, filed their bill in the United States District Court, in and for the Northern District of Georgia, Atlanta Division, said bill having been filed against the United States of America and the Interstate Commerce Commission. Complainants therein sought to enjoin and set aside so much of the said order of the Interstate Commerce Commission as required this complainant to establish and put in force rates on logs in intrastate commerce, within the State of Florida. There was a trial and hearing had before three United States Judges, constituting for that purpose the United States District Court for the Northern District of Georgia.

15th. The said Court rendered a decree on the 17th day of January, 1929, in which it denied said complainants therein the relief prayed and their said bill was dismissed.

16th. In an opinion accompanying the said decree, the Court said, "We think it (meaning the said order of the Interstate Commerce Commission) can also be construed as limited to points of origin on the Atlantic Coast Line Railroad North of and including Jacksonville, Gainesville, Burnett's Lake and High Springs. The existence and availability of logs at such origins was fully investigated, and at others, not. The Commission confined its order on interstate rates expressly to these origins and dealt with the intrastate rates only by reference to the order fixing the interstate rates, declaring that the rates in intrastate commerce within the State of Florida shall be the same as those prescribed in the next preceding paragraph hereof as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia."'

[fol. 121] 17. The Court entered no order restraining the order of the Interstate Commerce Commission; the defendants herein made no application to the Interstate Commerce Commission, for any change in or modification of its said report and order, attached as Exhibit No. 1 hereto.

18. On the other hand, the defendants hereinbefore described, and who are the railroad Commissioners of the State of Florida, without notice to this Complainant, made and entered a writing, which it calls its order No. 979, which was issued January 30th, 1929, effective instanter, a copy of which is attached hereto and marked Exhibit No. 2, reference to which is prayed as often as may be necessary.

19. The effect which the defendants herein claim for the said above mentioned writing, Order No. 979, is in substance as follows:

To delimit the effect of the aforementioned report and order of the Interstate Commerce Commission.

As to territory, and

To assert that the rates prescribed by the Interstate Commerce Commission and by the schedules filed with the Interstate Commerce Commission by this complainant and described in the said writing called Order No. 979, are not and will not become effective because they were not made with reference to certain rules and orders of the Florida Commission; that is after having gotten the consent of the said Florida Commissioner.

[fol. 122] 20. The said writing of the Florida Commission, if it becomes operative, will take out of the scope and protection of the Interstate Commerce Commission's order and out of the scope of the said schedules and tariffs so filed with the Interstate Commission, all of those shipments which originate on that part of complainant's lines of railroad in the State of Florida, known as its Perry Branch, the lines of said Perry Branch beginning at the line between the State of Florida and Georgia, near the City of Thomasville, Georgia, and running in a Southeasterly direction through Perry and Carbur and Wilcox. A very heavy movement of logs to Florida destinations originates on said Branch and that movement was the subject of considerable investigation and of such evidence in the hearing before the Commission, and was and is within the scope of the Interstate Commission's order and of the said filings with the Interstate Commission.

21. The said delimitation which the Florida Commission undertakes to make, would take out of the operation of In-

terstate Commerce Commission Order and Report, the logs which originate on the said Perry Branch lines of the Complainant and on the other lines in Florida destined to Palatka, Florida, moving intrastate.

22. The number of shipments so originating is very large, and that movement, present and prospective, was also the subject matter of much evidence before the Commission.

23. The purported order of the Florida Commission, if allowed to become effective, will eliminate from the operation of the report and order of the Interstate Commerce [fol. 123] Commission and from said filings by this Complainant with the Interstate Commission, shipments originating on the lines of this complainant in Florida destined to Lacoochee, Florida, as to which there is a considerable amount, which was the subject of much investigation and of much evidence before the Interstate Commerce Commission.

24. The Interstate Commerce Commission's order is plain. It speaks for itself. It operates over all of the lines of railroad of this complainant in intrastate commerce (both origin and destination being on the lines of this complainant) in the State of Florida, for the distance mentioned, to-wit: 170 miles.

25. The Interstate Commerce Commission found that the rates which it ordered to be suspended and superseded did and do constitute the unjust and undue and unreasonable prejudice and which it sought to remove. The Florida Commission seeks to diminish the action of the Interstate Commerce Commission and to limit both its order and the filings made by complainant with the said Interstate Commerce Commission in carrying out its said order, as hereinbefore mentioned, and so diminish it, that it will have either no effect or no appreciable effect. The Florida Commission's action, if allowed to stand, will make the Interstate Commerce Commission's action either completely null or nearly so, and will likewise annul almost completely the said filings with the Interstate Commission made by complainant in complying with said order.

26. The right of this complainant in these circumstances to file the rates prescribed by the Interstate Commerce Com-

mission, as to intrastate traffic, was and is, not dependent upon the rules and regulations of the Florida Commission. [fol. 124] The rates and fares, charges, classification, regulations and practices prescribed by the Interstate Commerce Commission are to be observed while in effect, by the carriers, parties to the proceeding "the law of any State or the decision or order of any State authority to the contrary, notwithstanding," as is prescribed by Section 13, subsection 4 of the Act of Congress to Regulate Commerce, which is relied upon.

27. The Florida Commission has declared that the Interstate Commerce Commission's order, and the said filings made by complainant with the said Interstate Commerce Commission in carrying out its said order, should be effective to only the limited extent therein described, while the Interstate Commerce Commission declares that its order is effective over all of the lines of the Atlantic Coast Line Railroad Company in the State of Florida.

28. The Florida Commission is seeking to make a direct conflict with the Interstate Commerce Commission's order and with the application thereof and with said filings.

29. The subject matter of the Florida Railroad Commission's order was not within its jurisdiction. The said Florida Commission, in undertaking to make its said order, has proceeded in conflict with the order of the Interstate Commerce Commission, and of its authority vested in it under the Commerce Clause of the Constitution of the United States and of the various Acts to regulate commerce enacted under authority thereof, and especially in conflict with the Interstate Commerce Act, which was approved February 4, 1887, and amendments thereto, and more especially in conflict with the authority conferred by Section 13 of the said Act, all of which provisions of the Constitution and of the said Acts of Congress are relied upon.

30. The said Florida Commission has proceeded in direct opposition to the opinion and decree of the United States [fol. 125] District Court of the Northern District of Georgia, hereinbefore referred to; for that

31st. The said opinion was in effect a direction to the Florida Commission to apply to the Interstate Commerce

Commission for further relief, if the Florida Commission felt itself aggrieved.

32nd. The Florida Commission's bill was dismissed on the showing presented, and relief was denied; and the Florida Commission, acting in disgard of said direction, has not applied to the Interstate Commerce Commission, but has undertaken to say that it has the power to say what are the limits of the Interstate Commerce Commission's orders, and that its power will be controlling, and not that of the Interstate Commerce Commission; while, in truth and in fact, the Interstate Commerce Commission, in the scope of its authority, is superior to that of the Florida Commission, and the Florida Commission's authority or power in such matters, is to be exercised in subordination to that of the Interstate Commerce Commission.

33rd. Your Complainant operates, in intrastate and interstate commerce, in the State of Florida about 2,200 miles of rail lines. It has and operates rail lines in the States of Virginia, North Carolina, South Carolina, Georgia, Alabama and Florida, and it carries on a general transportation business, as a carrier by railroad, subject to the Interstate Commerce Act, over its own rails, which are somewhat [fol. 126] in excess of 5,100 miles. This was true at the time this order was entered, and has been true ever since.

34th. The movement of logs contemplated and effected by the matters and things herein set out, is very great, as is indicated by the report of the Interstate Commerce Commission, which does not undertake to recite the full extent of the said movement, but one statement from the said report will give an indication of the said movement—"The record also shows that intervenor, Brooks-Scanlon Corporation, on August 31st, 1926, owned timber in Waukulla, Jefferson, Madison, LaFayette and Dixie Counties, Florida, estimated to contain 1,207,432,000 feet." One shipper had shipped, according to said report, between 1905 and 1926, 128,168 carloads. There were a number of other shippers with timber holdings comparable to those above mentioned. The shipments each day cover many carloads and the difference in the rate prescribed by the Interstate Commerce Commission and those sought to be enforced by the Railroad Com-

mission of Florida will amount to many thousands of dollars; which difference constitutes a very great and unreasonable burden upon, and discrimination against, interstate commerce.

35th. Complainant alleges that if allowed to prevail, the Florida Commission's action will have the effect of causing the utmost lack of uniformity and the greatest conflict between two authorities, as to which the Interstate Commerce Commission is supreme within its field.

[fol. 127] 36th. If the Florida Commission's order is not restrained, this complainant will be moving the same logs at the same time under two authorities, each claiming to be supreme, each fixing different rates, each requiring things inconsistent with the authority of the other.

37th. If complainant fails to obey the said order of the Interstate Commerce Commission, that Commission will undertake to subject it to many fines, penalties and punishments, and its officers and agents to prosecutions, fines and imprisonments. If it fails to comply with the Florida Commission's purported order, the Florida Commission will assert that complainant is subject to many fines and penalties on that account; and shippers will contend that the Florida Commission's rates are in effect, and complainant will contend that the Interstate Commerce Commission's rates are in effect; and these facts will give rise to a multitude of conflicting litigation, and to a multiplicity of suits in equity and actions at law, all of which are inconsistent with the laws in such cases made and provided.

38th. Your complainant is bound to adhere to the rules prescribed by the Interstate Commerce Commission and to conform thereto "Unless relieved by the Commission or enjoined from complying with it by decree of a court having jurisdiction." This complainant has not been relieved by the Commission from complying with its aforementioned report and order; nor has it been so enjoined by a court having jurisdiction.

39th. There is but one method prescribed by law for setting aside an order of the Interstate Commerce Commission in whole or in part, and that is through a bill in equity in

the United States District Court, that Court then being presided over by three Judges, as prescribed by Statute. The Florida Commission sought this relief and lost, and is now undertaking to make its own ex parte order to supercede the order of the superior authority.

[fol. 128] 40th. Complainant further alleges that it has no plain, adequate or complete remedy at law and it is therefore necessary for it to come into this court of equity to invoke the extraordinary remedies thereof for the purpose of avoiding a multiplicity of suits and prevent incalculable harm and irreparable injury, loss and damage from being visited upon complainant, its officers and agents in the premises.

Wherefore complainant waives discovery under oath of the defendants, and humbly prays:

(a) That subpœna issue against the defendants, A. S. Wells, E. S. Matthews and Mamie G. Eaton, who constitute the Florida Railroad Commission; that the same require the same defendants to be and appear in this Court to answer or otherwise plead to this complainant's bill in the manner prescribed by law.

(b) That this Court will grant to complainant herein an order restraining the enforcement of the writing of the Florida Railroad Commission, herein mentioned as Exhibit No. 2.

(c) That a restraining order be issued instanter, for that the Interstate Commission's order will become inoperative on the 8th day of February, 1929, and that complainant is bound to conform thereto, under pains and penalties prescribed by statute, and it will be impracticable to summons a Court, constituted, as required by law, in such cases made and provided and to hear and determine this cause before the 8th day of February, 1929.

(d) That an order issue requiring the defendants to show cause, at a time and place to be fixed therein, why the [fol. 129] prayers of this complainant should not be granted, and why interlocutory injunction should not be issued against the defendants, restraining and enjoining

them and their officers and agents from enforcing their said writing, dated January 30th, 1929, hereinbefore set out as Exhibit No. 2, to this bill, and likewise restraining and enjoining them from enforcing any part thereof, and that upon such hearing the defendants and each of them, their officers, agents and representatives, be restrained and enjoined from enforcing the said writing or any part thereof; and that such order continue in force and effect until the further order of this Court.

(e) That upon final hearing there will be made and entered a decree and order of this Honorable Court annulling and setting aside and enjoining the defendants herein from enforcing the said writing dated January 30th, 1929, copy of which is set out as Exhibit No. 2.

(f) That the said aforementioned writing issued by the said defendants be held to be null and void, as exceeding their authority and jurisdiction.

(g) Complainant prays that the defendants be restrained and temporarily and permanently enjoined from doing any act or thing or entering any order or other proceedings to interfere with the full enforcement of the order of the Interstate Commerce Commission hereinbefore mentioned, set out as Exhibit 1 hereto attached.

(h) That complainant have all other and further relief which may be meet or appropriate to give as to each and [fol. 130] all of the matters and things mentioned in this bill.

For all of which complainant respectfully prays.

Atlantic Coast Line Railroad Company, by W. E. Kay, Alston, Alston, Foster & Moise, Its Attorneys. W. E. Kay, W. E. Moise, of Counsel.

[fol. 131] STATE OF FLORIDA,
County of Duval:

Before me, the undersigned Notary Public, duly authorized to administer oaths, in said State and County, personally appeared W. R. Pittman who being by me personally sworn, deposes and says on oath that he is agent of the Atlantic Coast Line Railroad Company, the Complainant herein; that the facts therein set out are true, except

where they are stated on information and belief or as a matter of opinion, and this deponent verily believes them to be true.

W. R. Pittman.

Sworn to and subscribed before me this 6 day of February, A. D. 1929. A. N. Weil, Notary Public, State of Florida at Large. My commission expires April 2, 1929.

[fol. 132] IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF FLORIDA

In Equity

No. —

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

v.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON, Defendants

Now comes Atlantic Coast Line Railroad Company, and with leave of Court previously obtained, amends its bill filed in the above stated cause by adding thereto the following:

1

On February 7, 1929 the Interstate Commerce Commission made and entered an order in the aforesaid cause No. 18364 pending before it and in said order directed and stated that the order originally passed by it in said cause on August 2, 1929, making of force certain rates therein stated on the transportation of logs in intrastate commerce in the State of Florida as amended on February 5, 1929, is now of full force and effect on all lines of Atlantic Coast Line Railroad Company throughout the whole of the State of Florida, in substance stating that in order to clarify the situation the order as previously amended shall apply within and throughout the entire State of Florida without exception.

The said orders of the Interstate Commerce Commission dated August 2, 1928, February 5, 1929 and February 7, 1929 were made and entered upon and after full consideration of the evidence before it and such evidence fully supported and authorized the making of all of said orders.

Atlantic Coast Line Railroad Co., by W. E. Kay,
Alston, Alston, Foster & Moise, Its Attorneys.
W. E. Kay, E. W. Moise, of Counsel.

[fol. 133] FLORIDA,
Dade County:

Personally appeared before me the undersigned E. W. Moise who being duly sworn, deposed and said that he is of counsel for Atlantic Coast Line Railroad Company, the above named complainant, and that the facts stated in the foregoing amendment are true to the best of his knowledge, information and belief.

E. W. Moise.

Sworn to and subscribed before me this February 8, 1929. Della Sanders, Notary, etc.

The foregoing amendment allowed this February 8, 1929.
Wm. G. Shepard, U. S. Judge.

[fol. 134] IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF FLORIDA

In Equity

No. —

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

v.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON,
Defendants

Answer of Defendants

Come now the defendants now and at all times hereafter saving unto themselves all manner of benefit of advantage

or exception that may be had or taken to the many errors, uncertainties, and imperfections in the said Bill of Complaint as amended contained and for answer thereto or to so much thereof as is necessary, these defendants, answering, say:

1. These defendants admit that the said complainant is a corporation created and existing under the Laws of Virginia, a citizen of the State of Virginia, doing business as a common carrier by railroad in the State of Florida pursuant to the Laws of Florida.

2. Answering paragraph 2 of said Bill, these defendants admit that they are residents and citizens in their individual capacity of the several counties in Florida mentioned in Paragraph 2 of said Bill and are sole members of the Railroad Commission of the State of Florida; That [fol. 135] the office of these defendants as Railroad Commissioners as aforesaid is at Tallahassee, in the northern district of Florida.

3. Answering paragraph 3 of said Bill and each and every part of said Bill, these defendants aver that this is a suit of a civil nature in equity but deny and say that it is untrue that this suit arises under the Constitution or Laws of the United States and deny and say that it is untrue that it is between citizens of different states. These defendants aver that the matter in controversy set forth in said bill is the enjoining of a lawful rate duly established under the Laws of Florida and is not in any way within the scope of any order or regulation or authority asserted under the Constitution or Laws of the United States or by any board, body or officer of the United States.

4. That these defendants aver that there was established under and pursuant to the laws of Florida long prior to May 3, 1926, and that there is now in force and effect thruout Florida the certain scale of rates for the transportation of logs except cedar logs set forth in paragraph 4 of said Bill.

5. Answering paragraphs 5, 6, 7, 8, 9, 10 and 11 of said Bill of Complaint and each and every part of said bill, that on to-wit, May 3, 1926, the State of Georgia, acting by and thru the Georgia Public Service Commission, filed with and before the Interstate Commerce Commission a certain com-

plaint wherein the Atlantic Coast Line Railroad Company was named defendant. That in and by said complaint said Georgia Public Service Commission alleged that certain then existing rates on logs in carloads from points in Florida on certain of said Atlantic Coast Line Railroad Company's lines then existing to certain destinations on said company's lines in Georgia were unjust and unreasonable and as compared with the said scale of rates set forth in paragraph 4 of said Bill herein filed (hereinafter sometimes [fol. 136] called the Florida Intrastate scale) was then and there unduly preferential of intrastate shippers in Florida, unduly prejudicial to interstate shippers from Florida to Georgia and unduly discriminatory against interstate commerce. That in and by said complaint the said Georgia Public Service Commission sought the establishment of reasonable, non-prejudicial and non-discriminatory rates for future use. A true copy of said complaint is attached to and embodied in the transcript hereinafter referred to and hereto attached and made a part thereof. Said copy of said complaint being Exhibit A in said transcript.

That after the filing of said complaint as aforesaid defendant thereto, the said Railroad Company, appeared in said proceedings and filed its Answer wherein among other things it denied the unlawful acts alleged in said complaint.

That this defendant filed no formal petition of intervention or other pleadings in said proceeding but appeared therein in defense of said Florida Intrastate scale. That other interested parties intervened in the said suit and so it was that such proceedings were had as that on to-wit: August 2, 1928, there was entered by said Interstate Commerce Commission its final findings, decision and order wherein and whereby the said Railroad Company was notified and required to establish on or before October 10, 1928, upon notice to said Interstate Commerce Commission and to the general public by not less than 5 days filing and posting in the manner prescribed in Section 6 of the Interstate Commerce Act and thereafter to maintain and apply to the transportation of logs, except walnut, cherry and cedar, in carloads, from points on its lines in the State of Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, Florida, to destinations on its line in the State of Georgia, the following rates in cents per

hundred pounds, subject to a minimum weight of 40,000 pounds:

Distance	Rate
[fol. 137]	
10 miles and less	2.5 cents
30 miles and over 20	3.5 cents
40 miles and over 30	4.0 cents
55 miles and over 40	4.5 cents
70 miles and over 55	5.0 cents
85 miles and over 70	5.5 cents
100 miles and over 85	6.0 cents
120 miles and over 100	6.5 cents
140 miles and over 120	7.0 cents
160 miles and over 140	7.5 cents
170 miles and over 160	8.0 cents

And said Interstate Commerce Commission notified the said Railroad Company to cease and desist from practicing certain alleged undue preferences and advantages, undue prejudices and unjust discriminations found in said decision to exist in the relation of Interstate and Intrastate rates, and to establish, put in force and maintain rates for the transportation of logs except walnut, cherry and cedar in carloads, minimum weight 40,000 pounds in intrastate commerce within the State of Florida which should be the same as those prescribed by said order as reasonable for transportation from points in Florida to destinations in Georgia. The true copy of said decision and order, marked Exhibit B, is embodied in the transcript hereinafter referred to and hereto attached.

6. Answering paragraphs 12 and 13 of said Bill and each and every part thereof these defendants say that thereafter and prior to October 5, 1928 said railroad company purporting to comply with said decision and order of said Interstate Commerce Commission did file with said Interstate Commerce Commission its supplement to J. H. Glenn's agent's Southern Lumber Tariff I. C. C. A-659 wherein and whereby the said Company purported to cancel the said Florida intrastate scale on all of its lines within the State of Florida. And said Company purporting to comply with said decision and order of said Interstate Commerce Commission did likewise file with said commission last named its

supplement 4 to Florida Local Tariff (No. 20) I. C. C. B-2466 wherein and whereby it purported to make effective as of October 10, 1928, between all points on its lines in intrastate traffic within the State of Florida the same rates which were prescribed by said order of said Interstate Com- [fol. 138] merce Commission for application from points on the lines of said company in Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its lines in Georgia.

That thereafter proceedings were had before said Interstate Commerce Commission so as that the respective effective dates of said order and of said alleged cancellation of said Florida intrastate scale and of the alleged application of the new rates sought to be established in lieu thereof was postponed until February 8, 1929.

That said Railroad Company also in purported compliance with the said order of the said Interstate Commerce Commission by the filing of certain supplements to then existing tariffs prior to October 10, 1928, likewise sought to materially increase the then existing and now obtaining rates for the transportation of certain logs under 6 feet in length in intrastate traffice between points in Florida, notwithstanding the plaintiff in said bill now admits that said rates on said last described logs (referred to in said bill as short logs) were not covered by or involved in said proceedings before said Interstate Commerce Commission and would have attempted to put into effect such short log rates unless restrained from so doing by the order of the Circuit Court of Duval County, Florida, as hereinafter set forth.

7. Answering paragraphs 14, 15, and 16, of said bill of complaint and each and every part of said bill, these defendants aver that thereafter on to-wit: November 27, 1928, the State of Florida, pursuant to the acts of Congress did file in the United States District Court for the Northern District of Georgia, Atlanta Division, its bill of complaint against the United States and said Interstate Commerce Commission wherein and whereby said state sought to enjoin and set aside so much of said order of said Interstate Commerce Commission as required the said railroad company to establish and put in force rates on logs in intrastate commerce within the state of Florida. That

[fol. 139] said United States and said Interstate Commerce Commission appeared separately and filed their respective answers to said Bill so filed by said State. The trial and final hearing was had before three United States Judges constituting the said United States District Court.

That said court rendered its decision and decree on January 17, 1929 and in and by its said decision the said court construed and defined the said order of said Interstate Commerce Commission as being limited in scope inso far as it prescribed intrastate rates to rates on logs except walnut, cherry and cedar from points on said company's lines in Florida north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs, Florida, in one direction northbound for distances not exceeding 170 miles and found that said order in no way affected any intrastate rates from any other points of origin on logs moving in any other direction. And the said United States District Court by its decision and opinion having so limited the scope, operation, and effect of said order of said Interstate Commerce Commission thereupon entered its decree wherein and whereby the said court decreed that for the reasons stated in said opinion the said bill was dismissed.

A copy of all pleadings and of the decision, opinion and decree of the *of* said United States District Court for said northern district of Georgia, marked Exhibit C, and is embodied in the transcript hereinafter referred to and made a part hereof.

8. Answering paragraphs 17, 18, 19, 20, 21, 22 and 23 to 40 (both inclusive) of said Bill of Complaint and each and every part of said Bill, these defendants aver that in and by said Bill so filed by said state in said United States District Court for the northern district of Georgia, said State of Florida put in issue the territorial scope of the said order of the Interstate Commerce Commission, and the said United States and the said Interstate Commerce Commission by their answers in said suit joined issue on [fol. 140] the territorial scope thereof and said United States District Court by its decision, opinion and decree limited the operation, scope and effect of the said order of the said Interstate Commerce Commission as aforesaid. That these defendants recognizing that they were bound

by the decision and decree and opinion of the said United States District Court for said Northern District of Georgia so long as the same should remain unmodified and unreversed did on to-wit: January 30, 1929 officially as Railroad Commissioners make and cause to be entered an order wherein and whereby the increase in rates on logs except walnut, cherry and cedar moving in carload quantities intrastate in Florida prescribed by the said Order of the said Interstate Commerce Commission as construed and limited in scope by the said United States District Court were recognized and declared to be in force and effect in full compliance with the said Order of said Interstate Commerce Commission as construed and limited by said United States District Court. And in and by said order of the said Railroad Commissioners of Florida it was declared that the then existing Florida Intrastate Scale above set forth should remain in force and effect from all points of origin and to all movements in Florida intrastate traffic to which it was applicable save and except the points of origin and movements to which the said scale of rates so prescribed by said order of said Interstate Commerce Commission as construed by said court was made applicable. And in and by the said order of said Florida Railroad Commissioners it was declared that the said intrastate rates on short logs then existing should continue to exist thruout Florida the said short log scale not having been within the issues in said proceedings before said Interstate Commerce Commission or in issue in said proceedings before said United States District Court.

That for more than ten years last past there has been and still is in force and effect a rule and regulation of the said Florida Railroad Commissioners by them duly adopted known as General Rule #7 as follows:

[fol. 141] Increased Rates

"In no case shall any railroad or common carrier doing business wholly or in part in the State of Florida advance or increase any special rate of other rates, demurrage charges, storage or wharfage charges without first submitting the proposed increase rate or rates, demurrage, storage or wharfage charges to the railroad commissioners and receiving their approval."

That for more than two years last past there has been and still is in force and effect a duly adopted general rule and regulation known as General Rule Number 16 of the Railroad Commissioners of the State of Florida, in part as follows:

Discontinuance of Rates, Facilities, Privileges, and Service

"All rates now in effect or which may hereafter become effective, which are not higher than the maximum rates prescribed or approved by this Commission, whether such rates are the result of voluntary action upon the part of any company, corporation or other person subject to the jurisdiction of this commission, or otherwise, are hereby established as the rate of the railroad commission of Florida, and no such rates shall be discontinued nor raised without the consent of the railroad commission first being obtained, but all such rates shall continue in force without hindrance the same as the rate prescribed by the commission. * * *"

That the remaining portions of said last mentioned rule have no application to the subject matter of this suit.

That at no time herein mentioned has the said railroad company submitted to the said Railroad Commissioners any proposed change, increase or reduction of said Florida intrastate scale of the said short log scale and at no time herein mentioned have said Railroad Commissioners approved any change, increase or decrease in said scales or either of them or the cancellation, modification or withdraw-l of them or either of them.

That no rate from any point of origin or station on the lines of defendant was affected by said order of said In-
[fol. 142] terstate Commerce Commission as construed and limited by the said United States District Court except rates on logs (other than logs not over 6 feet in length and other than cedar logs) from points or origin and stations north of and including Burnett's Lake, Florida, situate upon the line of said railroad company which extends northwardly from Burnett's Lake, Florida, thru High Springs, Florida, thru Baker's Mill, Florida, to and beyond Du Pont, Georgia, and except from points of origin and stations north of and including Gainesville, Florida,

situate upon the line of the defendant which extends northwardly from Gainesville, Florida, thru Burnett's Lake and thru Jacksonville, Florida, to and beyond Folkston, Georgia.

That these defendants aver at the time the said petition was filed by the said Georgia Public Service Commission before the said Interstate Commerce Commission the said so-called Perry branch did not extend from Florida into Georgia nor did the said Perry branch extend from Florida into Georgia at any time at which any of the testimony was taken in said proceeding, but on the contrary at all such times said Perry branch extended from Perry, Florida, southwardly to Wilcox, Florida, and not otherwise, and no station on said Perry branch is north of Jacksonville, Gainesville, Burnett's Lake, or High Springs, Florida, or either of them on the lines of the defendant. And no point of origin or station on said Perry branch is within the scope or effect of said order of said Interstate Commerce Commission as construed by said United States Court and no south bound movements of traffic intrastate between points in Florida and no movement other than north bound movement is within the scope and effect of said last described order.

And these defendants deny and say that it is untrue that the purpose, intent or effect of the said order entered by the said Florida Railroad Commissioners is or does limit, [fol. 143] or affect the said order of the said Interstate Commerce Commission as construed and limited by the said United States District Court or any rate prescribed thereunder, but on the contrary the purpose, intent and effect of the said order of the said Florida Railroad Commissioners was to recognize that within the territory and with respect to the movements sought to be affected by the said order of said Interstate Commerce Commission as construed by said United States District Court the said Florida intrastate rate was superseded by the said order of said Interstate Commerce Commission as construed by said court until such time as the said decision, opinion and decree of the said court should be modified or reversed, and to declare that, as in duty bound under their respective oaths the said Florida Railroad Commissioners are bound

to do, the said Florida Intrastate Rate, except to the extent that the same was modified by the superior Federal power as aforesaid or modified upon due application made to said Florida Railroad Commissioners by said Railroad Company, would remain in full force and effect and the said short log rates would remain in force and effect.

That a copy of said order of said Florida Railroad Commissioners marked Exhibit D constitutes a part of the transcript hereinafter referred to and made a part hereof.

That notwithstanding the decision and opinion of the said United States District Court, and notwithstanding that said short log rates were never within the scope of the said opinion of the said Interstate Commerce Commission or the proceedings in said United States District Court, the said Railroad Company asserted to the said Florida Railroad Commissioners that on and after February 8, 1929, the said railroad company would not apply the said Florida Intrastate Scale between any stations or anywhere in Florida and would not apply the said short log scale between any stations or anywhere in Florida.

[fol. 144] That under the statute laws and oaths of the said Florida Railroad Commissioners it was and is the duty of said Florida Railroad Commissioners in the name of and behalf of the State of Florida to enforce the application for intrastate traffic in Florida of the lawful rates duly established pursuant to the Laws of Forida except insofar as such rates may be superseded by rates prescribed by said Interstate Commerce Commission acting within the scope of its authority.

And so it was, that to-wit: on January 31, 1929, the said State of Florida acting by and thru the said Railroad Commissioners, by T. T. Turnbull, special counsel, designated by them, joined by Fred H. Davis, attorney-general of said State, did file in the Circuit Court, in and for Duval County, Florida, in chancery, its Bill of Complaint wherein and whereby it sought temporary and permanent injunctions and restraining orders enjoining and restraining said Railroad Company from demanding, charging, or collecting on or after February 8, 1929, any rates or charges higher than those specified in said Florida Intrastate Scale for the transportation of logs (other than cedar logs and other

than logs not over 6 feet in length) in carload quantities for distances up to but not exceeding 170 miles, except for transportation northbound from points of origin north of and including the said Jacksonville, Gainesville, Burnett's Lake and High Springs (said north bound movement from points of origin north of and including the said four last named points being the points of origin and the movement with respect to which the paramount federal power had superseded the jurisdiction and power of said Florida Railroad Commission). And also in and by said bill so filed in said state court sought temporary and permanent injunctions restraining and enjoining the said Atlantic Coast Line Railroad Company from demanding, charging or collection, on or after February 8, 1929, higher than the Florida In- [fol. 145] trastate short log scale established under the Laws of Florida and then in force and effect.

That thereafter such proceedings were had as that temporary restraining order and injunctions prayed by said bill in said state court, as hereinabove set forth, were duly issued by the said state court and said suit in said state court is still pending therein.

That a transcript of the entire record of the proceedings in said state court is hereto attached and made a part hereof and is the transcript hereinabove referred to from time to time.

9. Further answering said bill of complaint and each and every part thereof, these defendants aver that each and every part of said bill of complaint is untrue save those in this Answer specifically admitted to be true.

10. That these defendants aver that the said bill of complaint as amended is insufficient in law and move the Court to dismiss the said bill of complaint and as grounds for such motion assert the following grounds severally:

a. That said bill of complaint is without equity.

b. That it appears from said bill that the said Railroad Commissioners of Florida are acting within the scope of their authority.

c. That it appears from said bill of complaint that the matters here complained of relate only to intrastate rates applicable wholly beyond and without the scope and limita-

tions of the said order of said Interstate Commerce Commission as construed and defined by said federal court.

d. It appears from said Bill of Complaint that this court is without jurisdiction.

e. It appears from said bill of complaint that the relief therein sought is beyond the jurisdiction of this court.

[fol. 146] f. It appears from said bill of complaint that complainant is not entitled to the relief or any of the relief prayed in said bill.

g. It appears from said bill of complaint that this bill is against these defendants in their individual capacities and not in their official capacities.

Wherefore these defendants pray to be hence dismissed with their reasonable costs in this behalf most wrongfully sustained.

A. S. Wells, E. S. Matthews, and Mamie G. Eaton, by Theo. T. Turnbull, Special Counsel. Theo. T. Turnbull, Solictor and of Counsel for the Defendants. Fred W. Davis, Attorney-General, State of Florida.

Attached as exhibit was copy of transcript of record of Duval County case of The State of Fla. vs. A. C. L. R. R. Co.

[fol. 147] STATE OF FLORIDA,
County of Dade:

Personally appeared before me, T. T. Turnbull, who being by me first duly sworn, deposes and says: that he is solicitor and of counsel for defendants in above entitled cause, and is special counsel designated by the Florida Railroad Commissioners and that he has read the foregoing Answer and that the same is true.

Theo. T. Turnbull.

Sworn to and subscribed before me this 8th day of February, 1929. Margaret Trammell, Notary Public, State of Florida at Large. My commission expires 3/23/29. (N. P. Seal.)

[fol. 148] IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF FLORIDA.

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

vs.

A. S. WELLS, E. S. MATTHEWS, and MAMIE G. EATON, Defendants

Supplemental Answer

Come now the defendants and by leave of Court first had and obtained file herein their supplemental answer to the bill of complaint herein and say:

I

That the said order of the said Interstate Commerce Commission dated February 7, 1929, and referred to in the amendment filed by the complainant to the bill of complaint herein on February 8, 1929, was published on February 7, 1929, and was entered and published long after the time of the entry of said order Number 979 entered on January 30, 1929, by these defendants as Florida Railroad Commissioners, and said last described order of said Interstate Commerce Commission without notice to these defendants and without these defendants being afforded an opportunity to be heard and without the taking of any additional evidence before or any further investigation by said Interstate Commerce Commission. And neither of these defendants had any knowledge at the time that said order No. 979 was entered, or at the time that the bill of complaint herein was filed, or at the time that this cause was argued before the Hon. William B. Sheppard at Miami, Florida, on February 7, 1929, that the said Interstate Commerce Com-
[fol. 149] mission had in contemplation any modification of its said order dated August 2, 1928. That these defendants first learned of the entry of said order after the conclusion of the argument before the said the Hon. William B. Sheppard at Miami on February 7, 1929, and after the Hon. William B. Sheppard had announced his decision in the premises, when the complainant by its solicitors informed

these defendants that on the following day, to-wit, February 8, 1929, the complainant would apply for leave to file the amendment to said bill which afterwards was filed by the complainant.

II

That said order of said Interstate Commerce Commission dated February 7, 1929, declared in effect that said order of said Interstate Commerce Commission dated August 2, 1928, was meant to be and was applicable on all the lines of the Atlantic Coast Line Railroad Company throughout the whole of the State of Florida without exception, notwithstanding that the said order of August 2, 1928, had been construed to be limited, with respect to intrastate rates in Florida, to points of origin North of and including Jacksonville, Gainesville, Burnett's Lake and High Springs by a court of competent jurisdiction, to-wit, the United States District Court for the Northern District of Georgia, Atlanta Division, three Federal Judges presiding pursuant to law, in a proceeeding in which the said complainant, Atlantic Coast Line Railroad Company, and these defendants as Florida Railroad Commissioners were adversary parties, and notwithstanding that the said United States District Court for the Northern District of Georgia had in effect declared that construed otherwise said order of said Interstate Commerce Commission dated August 2, 1928, would be void.

And so it was that as soon as practicable after the publication of the said order of said Interstate Commerce Commission dated February 7, 1929, these defendants, to-wit, on February 21, 1929, in the name and in behalf of the State of Florida and in their own behalf as Railroad Commissioners of Florida, did file in said United States District Court for the Northern District of Georgia their petition [fol. 150] for rehearing, setting forth the said order of said Interstate Commerce Commission dated February 7, 1929, and praying that said decree of said United States District Court for the Northern District of Georgia dated January 17, 1929, be opened up and set aside, and that the said last described cause be reheard, and that these defendants as Florida Railroad Commissioners as aforesaid, on their own behalf and on behalf of the State of Florida, be permitted

to file a supplemental bill in the nature of a bill of review in said cause. And said petition for rehearing was granted and leave to file said supplemental bill was granted and said supplemental bill was filed. And thereafter, to-wit, on March 6, 1929, the said cause was reheard by the said last described Court, three judges presiding pursuant to law. And at such rehearing the said Atlantic Coast Line Railroad Company was permitted to intervene and did intervene as party defendant to said cause.

III

That afterwards by its decree dated April 17, 1929, the said United States District Court for the Northern District of Georgia denied the relief prayed by said bill and supplemental bill and dismissed said bill and supplemental bill, for the reasons stated in the opinion of said Court dated March 22, 1929, wherein and whereby the said last described Court in effect reversed its opinion dated January 17, 1929.

IV

That as soon as practicable after the last described decree dated April 17, 1929, was signed by two Judges of said Court, and prior to the time of the actual entry of said decree, these defendants as Railroad Commissioners of Florida, to-wit, on April 20, 1929, did enter officially in their records an order wherein and whereby, among other things, these defendants as Florida Railroad Commissioners as aforesaid did declare their intention to appeal to the Supreme Court of the United States from the decree of the said United States District Court for the Northern District of Georgia dated April 17, 1929, to the end that said order of said Interstate Commerce Commission as amended and clarified as aforesaid should be enjoined, annulled and set [fol. 151] aside insofar as the same purported to affect intrastate rates on logs (other than logs under six feet in length) between points in Florida; and in and by said order these defendants as Railroad Commissioners of Florida as aforesaid did recognize that the said decision of the United States District Court sustaining the said order of the Interstate Commerce Commission was and is the law of the land until the same should be modified, set aside or reversed;

and thereupon these defendants as Railroad Commissioners of Florida as aforesaid, in and by said order did order that so much of said Order No. 979 entered by these defendants as Florida Railroad Commissioners on January 30, 1929, as related to intrastate rates between points on the lines of said complainant in Florida for the transportation of logs, except walnut, cherry and cedar, and except ash, gum, hickory, pine and cypress logs not over six feet in length, be and the same thereby was suspended so long as the said last described decree of said United States District Court for the Northern District of Georgia should remain in force and effect and unmodified and unreversed, or until the further order of the said Florida Railroad Commissioners.

V

That at no time and in no place or manner have these defendants, officially or otherwise, refused to recognize the binding force and effect of either of the orders of the said Interstate Commerce Commission as the same have been construed by the said United States District Court for the Northern District of Georgia, save before the said United States District Court for the Northern District of Georgia and before the said Supreme Court of the United States on appeal therefrom; that the said order No. 979 dated January 30, 1929, was in recognition of the binding force of said order of said Interstate Commerce Commission dated August 2, 1928, as construed by the said opinion of the United States District Court for the Northern District of Georgia and not otherwise; as likewise was the said order entered by these defendants as Railroad Commissioners as aforesaid on April 20, 1929, suspending the said order No. 979 dated January 30, 1929.

[fol. 152] VI

That these defendant as Florida Railroad Commissioners, on their own behalf as such and on behalf of the State of Florida, have taken and entered their appeal to the Supreme Court of the United States from the decision and decree of the said United States District Court for the Northern District of Georgia, Atlanta Division, dated April 17, 1929, and said appeal has been allowed; that in

the event the said decree of said United States District Court for the Northern District of Georgia shall be reversed and said order of the Interstate Commerce Commission be enjoined, annulled and set aside in whole or in part insofar as said order affects intrastate rates on logs in Florida, then and in such event these defendants as Railroad Commissioners of Florida, on behalf of the several shippers of Florida affected by said order, will recoup or recover or will assist such shippers to recoup or recover all sums paid by such shippers or charged or collected by said complainant for the transportation of logs by the complainant in excess of the intrastate scale of distance rates attacked in said proceeding before the said Interstate Commerce Commission; but so long as the said decree of the said United States District Court for the Northern District of Georgia, Atlanta Division, shall remain in force and effect and unmodified and unreversed these defendants as Railroad Commissioners, as in duty bound they ought to do, will abide the terms of said decree.

VII

That coincidentally with the filing of the bill of complaint in this Court the complainant did file in the United States District Court for the Southern District of Florida its bill of complaint in which the defendant herein were named as defendants, wherein and wher-by the complainant set forth, among other things, the filing by the State of Florida acting by and through these defendants, of the suit in equity referred to in paragraph numbered VIII of the answer herein, and set forth that the complainant on to-wit February 5, 1929, has sought to remove the said suit from said State court to said last described Federal court and that said State court had declined to surrender jurisdiction of said suit. And in and by said bill so filed by said com- [fol. 153] plainant in said United States District Court for the Southern District of Florida the complainant prayed, among other things, injunctions temporary and permanent, enjoining and restraining these defendants from further proceeding in said State court and for such other relief as in the premises might seem proper. And said suit came on to be heard before the Honorable William B. Sheppard, then duly assigned to the said Southern District of Florida

and duly exercising jurisdiction as Judge of the District Court thereof and sitting in Miami, and was presented to and heard by said Judge at the same time the bill of complaint herein was presented to and heard by said Judge.

That coincidentally with the filing of the amendment to the bill in this cause the complainant did file in said suit so pending in said United States District Court for the Southern District of Florida as amendment to the bill of complaint in such suit and such amendment was in all respects substantially of like import as the amendment to the bill in this cause. And the answer and motion to dismiss were duly filed by these defendants to said suits so pending in said United States District Court for the Southern District of Florida and to-wit on February 8, 1929, the said Judge last named, after due hearing, did dismiss the said suit so pending in said Southern District of Florida.

That afterwards, on application of the complainant herein, the said last named Judge did allow an appeal to the United States Circuit Court of Appeals, 5th Circuit, from the decree in said last described suit and thereupon the complainant did move the said United States Circuit Court of Appeals in said last described cause for an order restraining these defendants from enforcing or undertaking to enforce the said order No. 979 so entered by these defendants as Florida Railroad Commissioners as aforesaid, and also from enforcing or undertaking to enforce the said order entered by the said Circuit Court of Duval County, Florida, in said suit so filed in said State court by the State of Florida acting by and through these defendants as aforesaid.

[fol. 154] And afterwards, pursuant to said last described motion, the said Circuit Court of Appeals to-wit on February 14, 1929, did restrain these defendants, their agents, representatives and attorneys, until the further order of said last described Court, from enforcing or undertaking to enforce the said order of said Railroad Commissioners of the State of Florida, or said order entered in said Circuit Court for Duval County, Florida, and said restraining order so made and entered by the said United States Circuit Court of Appeals is still in force and effect.

And these defendants aver that these defendants by said order of said United States Circuit Court of Appeals are

restrained from doing each and every the things that by the injunction in this Court the complainant seeks to enjoin and restrain these defendants from doing.

VIII

And these defendants aver that because of the several matters and things set forth in the supplemental answer herein, as well as because of the several matters and things set forth in the original answer herein, the said temporary injunction prayed by the bill of complaint in this cause ought to be denied, and also that said bill ought to be dismissed.

IX

And these defendants aver that the said bill of complaint as amended is insufficient in law, and move the Court to dismiss the same, and as grounds for such motion assert each and every the several grounds of the motion to dismiss included in the answer of these defendants and likewise the further, additional grounds,

(h) That it is not made to appear that these defendants officially or otherwise have enforced or have attempted to enforce or will attempt to enforce any order or State rate in conflict with said order of said Interstate Commerce Commission dated August 2, 1928, as construed by the said United States District Court for the Northern District of Georgia.

[fol. 155] (1) That it is not made to appear that these defendants, officially or otherwise, have enforced or have attempted to enforce or will attempt to enforce any order or State rate in conflict with said order of said Interstate Commerce Commission dated August 2, 1928, as construed by said United States District Court for the Northern District of Georgia as such order is amended and clarified by said order dated February 7, 1929.

Wherefore these defendants pray to be hence dismissed with their reasonable costs in this behalf most wrongfully sustained.

—— ——, Attorneys for Defendants.

[fol. 156] Copy

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF FLORIDA

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

v.

A. S. WELLS, E. S. MATTHEWS, and MAMIE G. EATON, Defendants

Order Denying Injunction and Dismissing Bill

This cause coming on to be heard this day upon the bill of the complainant and the amendment to the bill of complaint and motion for injunction of the complainant, and upon the answer and motion to dismiss of the defendants and having been argued by counsel for the respective parties and submitted to the court for its decision, and the court being advised in the premises,

It is thereupon considered, ordered, adjudged, and decreed as follows, viz:

1. That the action of the state railroad commission complained of in the bill of complaint extends wholly and solely to matters and things outside of the scope, operation and effect of the said order of the Interstate Commerce Commission referred to in said bill, and that the State Commission is acting within the scope of its authority.

2. That the injunction and restraining orders prayed by the complainant be and the same hereby are denied.

3. That the motion of the defendants to dismiss the said bill be and the same hereby is granted, and that the said bill be and the same hereby is dismissed.

Done and ordered in chambers at Miami, Florida this 8th day of February, A. D. 1929.

Wm. B. Sheppard, District Judge.

[fol. 157] EXHIBIT "E" TO SUPPLEMENTAL BILL

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA

In Equity

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

vs.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON, Defendants

To the Honorable the Judges of the United States District Court for the Southern District of Florida:

Now comes Atlantic Coast Line Railroad Company, and humbly complaining, brings this, its Bill of Equity, against E. S. Matthews, A. S. Wells and Mamie G. Eaton, who are the Railroad Commissioners of the State of Florida, and respectfully avers:

1st. Complainant is a corporation, created and existing under the laws of the State of Virginia, a citizens of the State of Virginia, doing business as a common carrier by railroad in the State of Florida, pursuant to the laws of Florida.

2nd. The Defendants, E. S. Matthews, A. S. Wells and Mamie G. Eaton, are residents and citizens of the State of Florida (the said Wells residing in Leon County, the said Matthews in Bradford County in the Southern District of [fol. 158] the State of Florida and the said Eaton in Jefferson County). They are the sole members of the Railroad Commission of the State of Florida.

3rd. The said defendants who are the Railroad Commissioners of the State of Florida, purporting to act for the State of Florida, caused a Bill to be filed against the Atlantic Coast Line, this complainant, in the Circuit Court of Duval County, Florida, in chancery, seeking to restrain and enjoin complainant enforcing or complying with a certain order of the Interstate Commerce Commission dated August 2nd, 1928 in case # 18364, before said Commission, being entitled Georgia Public Service Commission vs. Atlantic

Coast Line Railroad Company, by which said order said Commission ordered and directed the Atlantic Coast Line Railroad Company to put into effect in the State of Florida certain rates on intra-state movement from points on the Atlantic Coast Line Railroad Company to points on the Atlantic Coast Line Railroad Company for the transportation of logs, except Walnut, Cherry and Cedar, in car loads minimum weight 40,000 pounds in the intra-state commerce and from enforcing or complying with the filings made by Atlantic Coast Line Railroad Company with the Interstate Commerce Commission in pursuance of the said order of the Interstate Commerce Commission and in carrying out the same and to enjoin and restrain this complainant from demanding charges or collecting on or after February 8, 1929 any rate or charges higher than those specified in the State of Florida intra-state scale described in the said Bill set out in the order of the Florida Railroad Commissioners described in said cause.

[fol. 159] 4th. Complainant filed in the Circuit Court of Duval County, Florida its petition and bond for the removal of said cause in the Circuit Court Duval County, Florida to the District Court of the United States for the Southern District of Florida and presented said petition to the Judge of said court, who refused to enter an order removing said cause to said District Court and entered an order retaining jurisdiction thereof. After the filing of said petition and bond for removal and the entry of said order declining removal the said Circuit Court of Duval County, Florida proceeded to hear said cause and entered therein a restraining order restraining this complainant from applying or enforcing or putting into effect the said order of the Interstate Commerce Commission or the said filings which it has made with said Interstate Commerce Commission as hereinbefore described, and from demanding, charging or collecting after February 8th, 1929 any rate or charges higher than those specified in the order of said Florida Railroad Commissioners, a copy of which is hereto attached as Exhibit # 1. The said order of the Circuit Court of Duval County, Florida was made without jurisdiction of the subject matter, was made after the filing of said petition and bond for removal in said Circuit Court of Duval County, Florida and the consequent removal of

said cause therefrom. Complainant has filed in the office of the Clerk of this Honorable Court a certified transcript of the record in said cause in the Circuit Court of Duval County, Florida.

[fol. 160] 5th. This petition is brought in aid of the jurisdiction of this Honorable Court, which jurisdiction is being infringed upon and overstepped by the action of the said Circuit Court of Duval County, Florida in proceeding with the hearing of said cause after the removal thereof to this Honorable Court and the entering therein of said order restraining this complainant as aforesaid.

Wherefore, waiving discovery, complainant prays:

1st. That subpœna do issue from this Honorable Court, directed to said defendants, requiring them to be and appear in this Honorable Court and plead therein.

2nd. That said defendants be restrained instanter from proceeding further in said Circuit Court of Duval County, Florida in said cause which has been removed as aforesaid to this Honorable Court and restrained from enforcing the order passed by said Circuit Court of Duval County, Florida and that said order be declared to be null and void.

3rd. That a rule be issued by this Honorable Court requiring the defendants to show cause why an injunction should not issue enjoining them from so proceeding until final action of this court and that upon final hearing in this Court a permanent injunction do issue so enjoining said defendants. That your complainant will have such other and further relief as in the premises seem proper.

And your complainant will ever pray.

Atlantic Coast Line Railroad Company, by —— ——.

[fol. 161] EXHIBIT No. 1

BEFORE THE RAILROAD COMMISSIONERS OF THE STATE OF FLORIDA

Order No. 979

Changes in Intrastate Rates on Logs, Except Walnut, Cherry and Cedar, from and to Certain Points in the Northern Part of Florida Pursuant to Decision of Federal Court

Issued January 30, 1929. Effective January 30, 1929

1. This order is made in view of impending changes in certain intrastate rates on logs in carloads from and to certain points on Atlantic Coast Line Railroad within the State of Florida, which changes in rates have been filed with the Interstate Commerce Commission in the following schedules to become effective on February 8, 1929:

Agent Glenn's Southern Lumber Tariff, I. C. C. A-659, Supplements 10, 12, 13, 15 and 16;

Agent Glenn's Port Lumber Tariff, I. C. C. A-647, Supplements 8, 9, 11, 13 and 14;

Atlantic Coast Line Railroad Company's Florida Local Tariff No. 20, I. C. C. B-2466, Supplements 4, 5, 6 and 7,

including specific items which purport to be issued in compliance with the orders of the Interstate Commerce Commission in its Docket No. 18364. The purpose of this order is to amend the Florida intrastate rates to conform to the orders of the Interstate Commerce Commission in Docket 18364 as construed and defined by the District Court of the United States for the Northern District of Georgia, Atlanta Division, in equity, in its opinion dated January 17, 1929.

[fol. 162] 2. Whereas the said schedules would have the effect of increasing the rates on logs of various kinds and other various description between points on the Atlantic Coast Line Railroad throughout the entire state of Florida without submitting the proposed increased rates to the Railroad Commissioners and receiving their approval as provided in General Rule No. 7, in Section 1 of the Rules and

Regulations of the Railroad Commissioners of the State of Florida and without a determination of such submission or application by the Railroad Commissioners as provided in Section 6730 of the Compiled General Statutes and Section 4644 of the Revised General Statutes of 1920, which said submission, application, approval and determination must be procured before any increases or changes can lawfully be made in any existing intrastate rates or charges for transportation subject to the jurisdiction of the Railroad Commissioners of Florida.

3. Whereas the said tariffs and schedules in so far as they name increased rates on logs, or cancel existing rates on logs of various kinds and descriptions including veneer blocks or bolts namely logs less than six feet in length, between points thruout the state of Florida on the lines of the Atlantic Coast Line Railroad Company purport to be issued in compliance with orders of the Interstate Commerce Commission in its Docket No. 18364, Georgia P. S. Commission v. A. C. L. R. R. Co. 146 I. C. C. 717;

4. Whereas the District Court of the United States for the Northern District of Georgia, Atlanta Division, in equity, in its opinion dated January 17, 1929, has construed and defined, for the purpose of rendering valid, the said order of the Interstate Commerce Commission in the said [fol. 163] Docket Number 18364 as being limited in its territorial scope in so far as it prescribes intrastate rates on logs to those rates which apply on logs except walnut, cherry and cedar from points on Atlantic Coast Line Railroad's lines in Florida north of and including Jacksonville, Gainesville, Butnett's Lake and High Springs, in one direction north bound for distances not in excess of 170 miles; and whereas the said schedules above named in Paragraph 1 hereof are not limited or restricted in accordance with the said special Federal Court's construction and definition of the said order of the Interstate Commerce Commission in its Docket No. 18364; and

5. Whereas it is deemed necessary in the public interests that the Railroad Commissioners of the State of Florida define the extent, if any, to which the intrastate rates on

logs in Florida will or may be changed on February 8, 1929 by virtue of the filing and publishing of the tariffs and schedules named in Paragraph 1 hereof with the Interstate Commerce Commission;

6. It is hereby ordered that the present intrastate rates on logs of all kinds and descriptions including veneer blocks, bolts, or "short" logs not over 6 feet in length which are in effect and lawfully published as required under the laws of the State of Florida and the regulations of the Railroad Commissioners of the State of Florida on the date of this Order shall remain in full force and effect on and after February 8, 1929 until further order of the said Railroad Commissioners of the State of Florida; notwithstanding the changes proposed to become effective on February 8, 1929 in the schedules and tariffs named in Paragraph 1 hereof; except that, so long as the said decision of the said Federal Court shall or may remain in effect and unreversed, [fol. 164] the said schedules and tariffs will, under authority of the Interstate Commerce Commission have the effect of changing and increasing only and solely the intrastate rates under the following tariff description: "Logs, except cedar, cherry and walnut logs, carload minimum weight 40,000 pounds* for distances not exceeding 170 miles, only in one direction namely north bound to destinations in Florida on the direct short line routes of the Atlantic Coast Line Railroad from the list of stations hereinafter named on the lines extending from High Springs, Florida, thru Baker's Hill, Florida, to and beyond DuPont, Georgia, and on the line extending northward from Gainesville, Florida, thru Burnett's Lake and thru Jacksonville to and beyond Folkston, Georgia, viz.:

Points of Origin

Boulogne, Andres, Hilliard, Dyal, Callahan, Ratliff, Cary Dinsmore, Pickett, Jacksonville;

Baker's Mill, Jasper, Marion, Sewanee, Rixford, Live Oak, Padlock, Pine Mount, McAlpin, O'Brien, Branford, Harvard & Groover, Thompson's Spur, Hildreths, Fort White, High Springs;

(* This description does not include "logs not over six feet in length.")

Herlong, Shelton, Columbia, Lake City;
East Alachua, Burnett's Lake;
Hague, Gracys, Paradise, T. & J. Crossing, Gainesville;
Florida Transfer, Valdosta Crossing, Cambon, Deeville, Baldwin, Mattox, McPherson, La Buena, Stockert, Manning, Sapp, Harrah, Ellarbee, Raiford, Johnstown, Lake Butler, Townsend's Still, Putnam, Dukes, Munich, Worthington Springs, Santa Fe, Haynesworth, Burnett's Lake and Alachua.

(NOTE.—These stations are named in the Glenn Tariff, I. C. C. A-659, page 414, note A.)

The jurisdiction of the Interstate Commerce Commission over the rates named in the exception above described has [fol. 165] been upheld under the decision of the Federal Court, thus superseding the laws of the State of Florida and the regulations of the Railroad Commissioners of the State of Florida.

7. Ordered further that counsel for the Railroad Commissioners for the State of Florida be and is hereby authorized to preserve the existing intrastate rates on logs of all kinds and descriptions and the rates on veneer blocks, bolts or short logs, which are lawfully in effect between all points in the State of Florida, so that the same shall remain in full force and effect on and after February 8, 1929, notwithstanding the filing of the tariffs and schedules named in paragraph 1 hereof with the exception of the intrastate rates on logs except cherry, walnut and cedar from points specified in paragraph 6 hereof as prescribed by the Interstate Commerce Commission and upheld by the decision of the Federal Court as described in paragraph 6.

8. Done and ordered by the Railroad Commissioners of the State of Florida in session at their office in the City of Tallahassee, Florida, this 30th day of January, 1929.

Railroad Commissioners of the State of Florida.
A. S. Wells, Chairman. (Signed) A. S. Wells.
(Seal.)

[fol. 166] STATE OF FLORIDA,
County of Duval, ss:

Before me, the undersigned Notary Public, duly authorized to administer oaths in said State and County per-

sonally appeared —— ——, who, being first duly sworn, deposes and says on oath that he is — of the Atlantic Coast Line Railroad Company, the complainant herein and that the facts herein set out are true.

—— ——.

Sworn to and subscribed before me this — day of February, 1929. —— ——, Notary Public, State of Florida at Large. My commission expires —— —, ——.

]fol. 167[IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA

In Equity. No. —

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant

vs.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON, Defendants

Now comes Atlantic Coast Line Railroad Company, and, with leave of Court previously obtained, amends its bill filed in the above stated cause by adding thereto the following:

I

On February 7, 1929 the Interstate Commerce Commission made and entered an order in the aforesaid cause No. 18364 pending before it and in said order directed and stated that the order originally passed by it in said cause on August 2, 1929, making of force certain rates therein stated on the transportation of logs in intra-state commerce in the State of Florida as amended February 5, 1929, is now of full force and effect on all lines of Atlantic Coast Line Railroad Company throughout the whole of the State of Florida, in substance stating that in order to clarify the situation the order as previously amended shall apply within and throughout the entire State of Florida without exception.

2

The said orders of the Interstate Commerce Commission dated August 2, 1928, February 5, 1929 and February 7,

1929 were made and entered upon and after full consideration of the evidence before it and such evidence fully supported and authorized the making of all of said orders.

Atlantic Coast Line Railroad Co., by W. E. Kay, Alston, Alston, Foster & Moise, Its Attorneys. W. E. Kay, E. W. Moise, of Counsel.

[fol. 168] FLORIDA,
Dade County:

Personally appeared before me the undersigned E. W. Moise who being duly sworn, deposed and said that he is of counsel for Atlantic Coast Line Railroad Company, the above named complainant, and that the facts stated in the foregoing amendment are true to the best of his knowledge, information, and belief.

E. W. Moise.

Sworn to and subscribed before me this February 8, 1929. Della Sanders, Notary Public, State of Florida at Large. My commission expires Oct. 11, 1932. (Notarial Seal.)

The foregoing amendment allowed. This Feb. 8, 1929.
Wm. B. Sheppard, U. S. Judge.

[fol. 169] IN THE DISTRICT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF FLORIDA

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

v.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON, Defendants

Motion to Dismiss

Now comes the State of Florida, acting by and through A. S. Wells, E. S. Matthews and Mamie G. Eaton, Railroad Commissioners of the State of Florida, by T. T. Turnbull, special counsel designated by them, joined by Fred H. Davis, Attorney General of the State of Florida, and moves to dismiss the bill of complaint as amended filed in this

cause, and for matters of law to be argued, specifies the following:

1. For said named defendants are sued in their official capacity as Railroad Commissioners, and the State of Florida is the proper and only party defendant necessary.

2. There is no equity in said bill.

3. This court has no jurisdiction over the defendant herein.

4. That said bill purports to be ancillary to the suit of State of Florida v. Atlantic Coast Line Railroad Company, now pending in the Circuit Court of Duval County, Florida, No. 23449 E, and the State of Florida is not a party hereto.

5. That said bill attempts to establish a diversity of citizenship by suing the members of the Railroad Commis- [fol. 170] sion individually, and such members are not individually responsible but act solely and only in an official capacity for and on behalf of the State of Florida.

6. That said bill is an attempt to enjoin the prosecution of a pending suit in the Circuit Court of Duval County, Florida, contrary to Section 265 of the Judicial Code.

7. That it affirmatively appears from said bill that the same attempts to enjoin the prosecution of a pending suit in Duval County, Florida, and set aside and declare null and void an injunction granted in such suit where the matters and things involved in said suit are purely and exclusively within the jurisdiction of the Circuit Court of Duval County, Florida, and over which this court has no jurisdiction.

8. It affirmatively appears that said bill is an attempt to enjoin a state court injunction, the subject matter of which this court never had jurisdiction.

A. S. Wells, E. S. Matthews, and Mamie G. Eaton, Railroad Commissioners, State of Florida, by Theo. T. Turnbull, Special Counsel Designated by them. Fred H. Davis, Attorney General.

[fol. 171] IN THE DISTRICT COURT OF THE UNITED STATES, SOUTHERN DISTRICT OF FLORIDA

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

vs.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON, Defendants

Answer

Now comes the defendants, and now and at all times here after saving to themselves all benefit or advantage of exceptions and imperfections to the said bill of complaint as amended contained, for answer thereto, or to as much thereof as is necessary, answering say:

1. These defendants admit the allegations contained in paragraph 1 of said bill of complaint.

2. These defendants admit the allegations contained in paragraph 2 of said bill of complaint.

3. These defendants deny the allegations contained in paragraph 3 of said bill of complaint, each and every, and demand strict proof thereof, and on the contrary allege: that the suit brought in the Circuit Court of Duval County, Florida was filed by the State of Florida, acting by and thru these defendants as Railroad Commissioners of the State of Florida; that these defendants were not individually parties to said Duval County suit. That said Duval County suit, brought against the complainant herein, did not seek to restrain and enjoin the Complainant from enforcing or complying with an order of the Interstate Commerce Commission, dated August 2, 1928 in Georgia Public Service Commission vs. Atlantic Coast Line Railroad Company, Docket #18364, but on the contrary said Duval County suit was brought to enjoin the complainant herein from demanding, charging or collecting and rates or charges for the transportation of logs of various kinds, higher than the presently existing Florida Intrastate rates as modified by the said order of the Interstate Commerce Commission in Docket #18364, which said order was limited and construed by the United States District Court

in and for the Northern District of Georgia, Atlanta Division, in the Case of State of Florida vs United States of America and Interstate Commerce Commission, decided January 17, 1920. That after said United States District Court opinion was handed down, these defendants in their official capacity as Railroad Commissioners for the State of Florida, and in accordance with the duty imposed upon them by law and in order to make the Florida Intrastate rates on said logs the same as those set forth in the order of the Interstate Commerce Commission, as the same was [fol. 172] construed and limited by said Federal Court, made and entered its Order No. 979 whereby the rates on logs as specified therein were made to conform to the order of the Interstate Commerce Commission's order. That a copy of said order is attached to the bill of Complaint herein and reference thereto is hereby prayed and said order is made a part hereof as if specifically set forth herein.

4. Answering paragraph 4, these defendants admit that the complainant filed, in the Circuit Court of Duval County, Florida, its petition and bond for the removal of said Circuit Court suit to the District Court in and for the Southern District of Florida, and presented said petition and bond to the Judge of said Court who refused to enter an order removing said cause but entered and order retaining jurisdiction thereof. But these defendants deny that the Circuit Court of Duval County, upon proceeding to hear said State court suit, entered an order restraining the Complainant herein from applying or enforcing the order of the I. C. C. in Docket #18364, but, on the contrary say that the Circuit Court of Duval County entered an order enjoining the complainant herein from charging, demanding or collecting any rates for the transportation of logs of various kinds, higher than the presently existing rates as the same were modified and raised by the order of the I. C. C. in #18364 and con-trued by said Federal Court and as the said rates were made to conform to the I. C. C. order by these defendants in their official order No. 979. That a copy of said order of injunction made and entered by the Circuit Court of Duval County, Florida is made a part hereof as Exhibit "A" as if specifically set forth herein and reference thereto is hereby prayed.

5. These defendants deny the allegations contained in paragraph 5 of said bill of complaint and on the contrary allege that the Circuit Court of Duval County, Florida not only had jurisdiction of the suit brought by the State of Florida against the Complainant herein, but such Court likewise had sole and exclusive jurisdiction thereof, and that said suit was not a removable cause within the meaning of Section 24 of the Judicial Code.

6. And further answering said Bill of complaint these defendants allege that the Florida Railroad Commission gave full force and effect in and by its order No. 979, and complied with the order of the I. C. C. in Georgia Public Service Commission vs Atlantic Coast Line Railroad Company, Docket #18364, both as construed and limited by the District Court of the United States in State of Florida vs United States and I. C. C. and as fully and completely appears upon the face of said order entered in #18364.

And these defendants having completely answered said bill, pray to be dismissed with their costs in this behalf most wrongfully sustained.

A. S. Wells, E. S. Matthews, and Mamie G. Eaton, Railroad Commissioners of Florida, by Theo. T. Turnbull, Special Counsel Designated by Them. Fred H. Davis, Attorney General.

[fol. 173] IN THE CIRCUIT COURT IN AND FOR DUVAL COUNTY, FLORIDA

In Chancery

THE STATE OF FLORIDA, Complainant,

vs.

ATLANTIC COAST LINE RAILROAD COMPANY, a Corporation, Defendant

This cause came on to be heard upon application for temporary injunction after due notice and upon the affidavits in support thereof and upon consideration the court being advised in the premises, it is, thereupon, ordered, adjudged and decreed:

1. That the defendant Atlantic Coast Line Railroad Company, its agents, servants, employees and attorneys be and

the same are hereby each jointly and severally restrained and enjoined forthwith from demanding, charging, or collecting on or after February 8, 1929, any rates or charges higher than those in the scale of rates hereinafter set forth in this paragraph numbered 1 which are specified for the transportation of logs (other than cedar logs and other than logs not over 6 feet in length) in carload quantities moving intrastate in Florida for distances up to but not exceeding 170 miles from any point of origin, on its lines in Florida to any destination on its lines in Florida except for transportation north bound from points of origin north of and including Burnett's Lake, Florida, situated upon the line of said defendant, which extends northwardly from said Burnett's Lake, Florida, through High Springs, Florida, through Baker's Mill, Florida to and beyond Dupont, Georgia, and except for transportation north bound from points of origin north of and including Gainesville, Florida, upon the line of the defendant which extends northwardly from Gainesville, Florida, through Burnett's Lake, Florida, and through Jacksonville, Florida, to and beyond Folkston, Georgia; said scale of rates is as follows:

[fol. 174] Logs, carload, except cedar logs, per car 50,000 pounds, excess in proportion, cars to be loaded and unloaded by owner and not to be unloaded on the railroad right of way:

From A. C. L. R. R. Stations in Florida to A. C. L. R. R. Stations in Florida

For distances of	
40 miles and under	$9.55 per car
60 miles and over 40 miles	10.50 " "
90 miles and over 60 miles	11.50 " "
100 miles and over 90 miles	13.00 " "
110 miles and over 100 miles	14.00 " "
130 miles and over 110 miles	16.00 " "
160 miles and over 130 miles	17.00 " "
170 miles and over 160 miles	18.50 " "

2. That the defendant Atlantic Coast Line Railroad Company, its agents, servants, employees and attorneys be and the same are hereby each jointly and severally restrained and enjoined forthwith from demanding, charging, or col-

lecting, on or after February 8th, 1929, any rates or charges higher than those specified in the scale of rates hereinafter specified in this paragraph numbered 2 for the transportation of hickory, ash, oak, pine, gum and cypress logs not over 6 feet in length in carload quantities moving intrastate in Florida between any points on the line of said defendant in Florida, said scale of rates in this paragraph numbered 2 is as follows: Logs, viz., ash, gum, hickory, oak, pine and cypress, not over 6 feet in length. per car forth thousand pounds excess in proportion.

Distances	Rate
5 miles and under	855 cents
10 miles and over 5	855 cents
20 miles and over 10	950 cents
30 miles and over 20	1100 cents
40 miles and over 30	1150 cents
50 miles and over 40	1300 cents
60 miles and over 50	1400 cents
70 miles and over 60	1500 cents
80 miles and over 70	1600 cents
90 miles and over 80	1700 cents
100 miles and over 90	1800 cents
110 miles and over 100	1850 cents
120 miles and over 110	2000 cents
125 miles and over 120	2050 cents
140 miles and over 125	2150 cents
[fol. 175]	
150 miles and over 140	2200 cents
160 miles and over 150	2300 cents
170 miles and over 150	2500 cents
200 miles and over 160	2500 cents
220 miles and over 200	2600 cents
240 miles and over 220	2700 cents
260 miles and over 240	2750 cents
280 miles and over 250	2850 cents
290 miles and over 280	2900 cents
320 miles and over 290	2950 cents
330 miles and over 320	3050 cents
340 miles and over 330	3100 cents
360 miles and over 340	3150 cents
370 miles and over 360	3200 cents
380 miles and over 370	3300 cents
400 miles and over 380	3350 cents

3. That the said injunctions and restraining orders hereinabove set forth each and every shall be and remain in force and effect pending this suit and until the further order of this court.

Done and ordered at Jacksonville, in Duval County, Florida, in Chambers, this February 4th, A. D. 1929.

(Signed) DeWit T. Gray, Circuit Judge.

[fol. 176] IN THE DISTRICT COURT OF THE UNITED STATES, SOUTHERN DISTRICT OF FLORIDA

ATLANTIC COAST LINE RAILROAD COMPANY, Complainant,

vs.

E. S. MATTHEWS, A. S. WELLS, and MAMIE G. EATON, Defendants

Order Denying Injunction and Dismissing Bill

This cause coming on to be heard this day upon the complainant's Bill of Complaint, and amendment to Complainant's bill the Complainant's motion for an injunction and restraining order as prayed for in the Complainant's Bill, the Defendant's Answer, and upon the Defendant's Motion to Dismiss said Bill of Complaint and having been argued by counsel for the respective parties and having been submitted for consideration and determination by the Court, and the Court having fully heard the argument of counsel for the respective parties and having seen and inspected the transcript of record in that certain cause in equity referred to in Complainant's Bill of Complaint as having been instituted in the Circuit Court of Duval County, Florida, upon the 31st day of January 1929, wherein the State of Florida is Complainant and Atlantic Coast Line Railroad Company is Defendant as to which the injunction of this Court is sought to restrain the Defendants in this cause from further proceedings in said proceedings in said state court and the Court being now advised of its decision in the premises, and it appearing to the Court from its examination and consideration of said transcript of record of the cause pend-

[fol. 177] ing in the state court of the state of Florida that said state court has full jurisdiction of the parties and sub-

ject matter of such suit in the state court and that said cause pending in the state court is not a cause removable to this Court under the Constitution or any law of the United States and that the said state court has lawfully denied a petition seeking to remove the same to this court and that the said Bill of Complaint is wholly without equity.

It is thereupon considered, ordered, adjudged, and decreed that the Complainant's motion for injunction and restraining order as prayed for in the Bill of Complaint be and the same is hereby denied and that said Bill of Complaint be and the same is hereby dismissed.

Done and ordered at Miami, Florida, in said district, this seventh day of February, A. D. 1929, in chambers.

Wm. B. Shepard, District Judge.

[fol. 178] IN UNITED STATES DISTRICT COURT

[Title omitted]

NOTICE OF APPLICATION FOR INJUNCTION—Filed Mar. 1, 1929

To the Attorney General of the United States, the Interstate Commerce Commission, the Georgia Public Service Commission:

You will hereby take notice that the complainant herein will present to the Judge of the District Court of the United States for the Northern District of Georgia, Atlanta Division, at New Orleans, Louisiana. an application for a temporary or interlocutory injunction or a temporary stay or suspension, restraining the United States of America and the Interstate Commerce Commission from enforcing a part of that certain order entered by the Interstate Commerce Commission on the 2nd day of August, 1928, in Docket No. 18364, and the amendment thereto of February 7, 1929, all of which is described in the original bill of complaint herein and in the supplemental bill of complaint in the nature of a Bill of Review and in the Petition for Rehearing, copies of which have been served upon you; and

that said application will be heard at New Orleans, Louisiana, at 10 o'clock, A. M. on the 7th day of March, 1929.
[fol. 179] Dated this 23rd day of February, 1929.

Fred H. Davis, Attorney General of the State of Florida; T. T. Turnbull, Special Counsel for Florida Railroad Commission, Solicitors for Complainant.

Received copy of this notice and accept service thereof this 26 day of February, A. D., 1929.

Elmer B. Collins, Special Assistant to the Attorney General, for the Attorney General of the United States. J. Stanley Payne, for the Interstate Commerce Commission. Jas. A. Perry, Chairman, for the Georgia Public Service Commission.

This March 1, 1929.

[fol. 180] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ENTERTAINING PETITION FOR REHEARING AND TO SHOW CAUSE—Filed Mar. 1, 1929

This cause came on to be heard upon petition for a rehearing herewith presented, and it appearing to the Court that new and additional facts and matters have developed since this Court's decision and final decree entered herein on January 17, A. D. 1929, and it further appearing that the term of this Court at which said opinion and decree was entered has not expired, upon consideration,

It is, therefore, ordered and decreed:

1. That this Court does hereby entertain said Petition for rehearing;

2. That the defendants, the United States of America and Interstate Commerce Commission, and the intervenor, Georgia Public Service Commission, and each of them, be and they are each hereby ordered and required to show cause, if they can, on the 7th day of March, A. D. 1929, at New Orleans, La.,

(a) Why the decree of this Court heretofore entered January 17, 1929, should not be opened, vacated and set aside.

(b) Why a rehearing should not be granted herein.

(c) Why the complainant should not be permitted and allowed to file herein its supplemental bill in the nature of a bill of review tendered and presented with said Petition for rehearing.

(d) Why the prayers of said Petition for rehearing, each and every, should not be granted.

[fol. 181] 3. That a copy of this Order and said Petition for rehearing be served upon the defendants, the United States of America and Interstate Commerce Commission, and the intervenow, Georgia Public Service Commission.

Done and ordered this 21 day of February, A. D. 1929.

R. W. Walker, United States Circuit Judge. Ben C. Dawkins, United States District Judge. Sam'l H. Sibley, United States District Judge.

Recd. in Clerk's office Feb. 21, 1929.

Received copy of the foregoing order and likewise copies of the Petition for Rehearing and the Supplemental Bill mentioned therein and accept service thereof this the 26 day of February, A. D. 1929.

Elmer B. Collins, Special Assistant to the Attorney General, for the United States of America. J. Stanley Payne, for the Interstate Commerce Commission. Georgia Public Service Commission, by Jas. A. Perry, Chairman.

This Mch. 1, 1929.

[fol. 182] IN UNITED STATES DISTRICT COURT

[Title omitted]

RETURN TO RULE TO SHOW CAUSE

Now comes the United States of America, defendant in the above entitled proceeding, and for its Return to Rule to Show Cause issued against it herein, says:

United States assents to (a) opening of the decree of this Court entered herein on January 17, 1929; (b) grant-

ing of a rehearing herein; (c) the filing by Petitioner of its supplemental bill in the nature of a bill of review presented with its petition for rehearing.

United States further says, in response to the Rule to Show Cause, that in so far as the Court's said final decree herein dismissed Petitioner's Original Bill, said decree is just, proper and correct and, therefore, should be affirmed upon rehearing, notwithstanding the new matters and things alleged in the Supplemental Bill. But, inasmuch as this Court, in dismissing said Original Bill, so construed the order of the Interstate Commerce Commission issued August 2, 1928, as to restrict and limit the state-wide scope and effect of said order, as affecting intrastate rates on logs transported by the Atlantic Coast Line Railroad Company, and thus, in effect, annulled said order [fol. 183] to the extent of such restriction and limitation, United States prays that the Court, in reconsidering this cause, give full effect to said order by holding that it validly and lawfully requires said intrastate rates to be increased from and to all points on the Atlantic Coast Line Railroad Company's lines within and throughout the State of Florida, and, thereupon, affirm its decree dismissing said original Bill.

Elmer B. Collins, Special Assistant to the Attorney General. William J. Donovan, the Assistant to the Attorney General. Clint W. Hager, United States Attorney.

Recd. in Clerk's Office, March 27, 1929.

[fol. 184] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF THE UNITED STATES TO THE SUPPLEMENTAL BILL OF COMPLAINT

United States, for answer to the supplemental bill filed herein against it says:

I

United States admits the allegations of paragraphs I, II, III and IV.

II

United States has not sufficient knowledge or information to form a belief concerning the allegations of paragraphs V and VI and, therefore, neither admits nor denies those allegations.

III

Answering paragraph VII United States admits that the Interstate Commerce Commission issued the order therein described on February 15, 1929, in which it excepted from its order of August 2, 1928, the following, "ash, gum, hickory, oak, pine and cypress logs not over six feet in length." As to the other allegations made in said paragraph United States has not sufficient knowledge or information to form a belief and, therefore, neither admits nor denies them.

[fol. 185] IV

United States has not sufficient knowledge or information to form a belief concerning the allegations in paragraphs VIII, IX, XI and XII, and as to them, therefore, it neither admits nor denies.

V

For answer to paragraph X United States says that the Interstate Commerce Commission on February 7, 1929, issued the order therein referred to and alleges that said order is in the following words:

Upon further consideration of our order heretofore entered in this proceeding on August 2, 1928, as amended by orders entered August 27th, October 19th, and November 30th, 1928, and February 5, 1929, and because of doubt that has arisen as to the territorial limits intended to be covered by that portion of said order of August 2, 1928, as amended, prescribing intrastate rates within the State of Florida:

It is ordered, That the said order of August 2, 1928, as amended, be, and it is hereby, changed in language for the purpose of clarification as follows: In the fourth paragraph of said order of August 2, 1928, substitute for "within

the State of Florida" the following "within and throughout the entire State of Florida, without exception."

VI

United States, for answer to paragraph XIV (the copy of supplemental bill served upon the United States contains no paragraph numbered XIII), says it has no information, knowledge or belief as to whether, when, or how the ancillary Bill mentioned in paragraph XI or the Bill mentioned in paragraph XII were presented to the court alleged, or to any court.

Further answering said paragraph XIV United States says that the Interstate Commerce Commission on February 7, 1929, did make and issue the order mentioned in that paragraph which said order is quoted in paragraph V of this answer.

And for a further answer to paragraph XIV United States says that no further "investigation or proceeding whatsoever" was necessary or required by law or otherwise, preceding the issuance of the order of February 7, 1929, and that said order was merely a restatement and reiteration by the Interstate Commerce Commission of the requirement contained in its order entered August 2, 1928, [fol. 186] directing the Atlantic Coast Line Railroad Company as follows:

It is further ordered, That said defendant be, and it is hereby, notified and required to cease and desist from practicing the undue preference and advantage, undue prejudice, and unjust discrimination found in said report to exist in the relation of intrastate and interstate rates and to establish, put in force, and maintain rates for the transportation of logs, except walnut, cherry, and cedar, in carloads, minimum weight 40,000 pounds, in intrastate commerce within the State of Florida which shall be the same as those prescribed in the next preceding paragraph hereof as reasonable for transportation in interstate commerce from points in the State of Florida to destinations in the State of Georgia.

United States has not sufficient knowledge or information to form a belief concerning the remaining allegations of

paragraph XIV and therefore neither admits nor denies them.

VII

United States, answering paragraph XV, denies that the purpose, intent and effect of the order issued February 7, 1929, was or is "to refute and deny the construction and limitation placed upon the said order of August 2, 1928, by this Court;" and alleges that the purpose and intent of the order issued February 7, 1929, was to reiterate and restate beyond possible misconception that by its order of August 2, 1928, the Interstate Commerce Commission intended to and did require the Atlantic Coast Line Railroad Company to establish, publish and maintain the intrastate rates in question throughout the State of Florida and not merely from and to intrastate points north of and including Jacksonville, Gainesville, Burnett's Lake, and High Spring.

VIII

United States denies each and every allegation made and contained in paragraph XVI. United States alleges, in further answer to paragraph XVI, that the order of August 2, 1928, as amended, was issued by the Interstate Commerce Commission upon complaint alleging, among other things, violations of Sections 3 and 13 of the Interstate Commerce Act, and upon its finding of fact made and entered upon the record before it that the intrastate rates complained of resulted in undue preference and advantage of shippers of intrastate traffic within the State of Florida, [fol. 187] in undue prejudice to shippers of interstate traffic from points in the State of Florida to points in the State of Georgia, and in unjust discrimination against interstate commerce; and that the power thus exercised by the Interstate Commerce Commission in making said order is expressly granted to it by Sections 3 (1), 13 (4) and 15 (1) of said Act and does not constitute an unconstitutional or other unlawful invasion of the sovereign rights of the State of Florida.

IX

Except as herein expressly admitted, United States denies the truth of each and every allegation and conclusion

contained in the supplemental bill in so far as they conflict either with the allegations herein, or with the statements or conclusions of fact included in said report and order of August 2, 1928.

Wherefore, having fully answered, defendant prays that the supplemental bill be dismissed at the cost of the plaintiffs and for such other and further order as may be appropriate.

Elmer B. Collins, Special Assistant to the Attorney General. William J. Donovan, the Assistant to the Attorney General. Clint W. Hager, United States Attorney.

[fol 188] *Duly sworn to by Elmer B. Collins. Jurat omitted in printing.*

Recd. in Clerk's Office March 27, 1929.

[fol. 189] In United States District Court

[Title omitted]

Order Granting Rehearing, etc.—Mar. 7, 1929

The above numbered and entitled causes came on this day to be heard upon the petition filed on behalf of the complainants for a rehearing herein and for leave to file a supplemental bill of complaint, and also, upon the motion of the Atlantic Coast Line Railroad Company for leave to intervene;

And, upon consideration thereof,

It is ordered that the petition of the complainants be granted, that the causes be re-opened and that complainants are permitted to file their supplemental bill of complaint herein;

It is further ordered that the motion of the Atlantic Coast Line Railroad Company be granted, and accordingly that the petition of intervention of said Atlantic Coast Line Railroad Company be filed of record.

[fol. 190] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER REFERRING INTERVENTION TO TRIAL ON MERITS—Mar. 7, 1929

Whereupon, after hearing argument of solicitors for the parties in interest, and on consideration thereof, it is ordered that the intervention herein, be referred to the trial of this case on the merits.

[fols. 191 & 192] Minute entries of argument and submission omitted in printing.

[fol. 193] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION TO INTERVENE BY ATLANTIC COAST LINE R. R. Co.

To the Honorable the Judges of the United States District Court for the Northern District of Georgia:

Now comes the Atlantic Coast Line Railroad Company, and respectfully represents unto this Honorable Court as follows:

(1) It is interested in the above entitled proceeding. It was the respondent in cause No. 18364 before the Interstate Commerce Commission, in which the Georgia Public Service Commission was the complainant. It is affected by the order of the Interstate Commerce Commission made in said cause and will be affected by any order which this court may enter thereunder.

(2) Wherefore, petitioner prays that it be allowed to intervene in this cause.

Atlantic Coast Line Railroad Company, by F. B. Grier, Carl H. Davis, W. E. Kay, Alston, Alston, Foster & Moise, Its Atty.

The foregoing petition is granted and the Atlantic Coast Line Railroad Company is allowed to intervene in this cause.

This 7 day of March, 1929.

Sam'l H. Sibley, U. S. Judge.

Received in Clerk's Office March 27, 1929.

[fol. 194] IN UNITED STATES DISTRICT COURT

[Title omitted]

MOTION OF ATLANTIC COAST LINE RAILROAD COMPANY, AS TO REHEARING

To the Honorable the Judges of the District Court for the Northern District of Georgia:

Now comes the Atlantic Coast Line Railroad Company, the Intervenor in the above mentioned cause, and before pleading to the merits of this case respectfully represents unto this court as follows:

1

The supplemental pleadings in this case show that on the 30th day of January, 1929, the Railroad Commissioners of Florida cause to be entered an order (No. 979) wherein and whereby they undertook to declare that all then existing Florida intrastate rates for the transportation of logs of the kind involved in this cause should continue in force and effect throughout the State, except to the very limited extent set out therein. The said order No. 979 purports to be effective over all the lines of the Atlantic Coast Line Railroad Company in the State of Florida for the transporta-[fol. 195] tion of logs, except cedar, moving northward in one direction from points of origin on the lines of the Atlantic Coast Line Railroad Company north of and including Jacksonville, Gainesville, Burnett's Lake and High Springs to destinations on its lines in the State of Florida for distances not exceeding 170 miles.

2

The supplemental pleadings also show that the Railroad Commissioners of Florida filed suit in the Circuit Court of Duval County, Florida, in the name of the State of Florida, wherein the Atlantic Coast Line Railroad Company has been restrained from enforcing any rates on logs in Florida except those set out in the said order No. 979 of the said Florida Railroad Commission, and that interlocutory injunction was granted thereon against the Atlantic Coast Line Railroad Company.

3

The supplemental pleadings further show that an ancillary bill was filed in connection with removal proceedings and the District Court of the United States for the Southern District of Florida denied to the Atlantic Coast Line Railroad Company an order restraining and enjoining the persons who are the Railroad Commission of Florida from enforcing the above mentioned injunction and dismissed this Intervenor's said ancillary bill.

4

The said supplemental pleadings also show that this Intervenor filed its bill in the United States District Court for the Northern District of Florida, seeking to restrain [fol. 196] by injunction the enforcement of the said order No. 979 of the Florida Railroad Commission. The said bill was filed on the ground that said order was unconstitutional in that it conflicted with the commerce clause of the Constitution of the United States and the Acts of Congress made in pursuance thereof, especially the Act of Congress known as the Act to Regulate Commerce, approved February 4, 1887, and the amendments thereto, and particularly Section 13, sub-paragraph 4 thereof. The Judge of said United States District Court refused to call together three Judges for the trial of said cause, and dismissed Intervenor's said bill.

5

Intervenor alleges that the order of the United States District Court for the Southern District of Florida, above

mentioned in the ancillary proceedings, has been appealed to the United States Circuit Court of Appeals for the Fifth Circuit, and a restraining order has been granted thereon until the further order of that Court, restraining the enforcement of the said order No. 979 and of the said order of the Circuit Court of Duval County, Florida, restraining the persons who are the Florida Railroad Commission from enforcing said order No. 979 and the said order of the Circuit Court of Duval County, Florida.

6

A motion to be allowed to file a petition for writ of mandamus has been filed by this Intervenor in the Supreme Court of the United States, seeking a writ of mandamus to the Honorable, the Judge of the United States District Court for the Northern District of Florida, and [fol. 197] to the State Court, requiring the Judge of said Court to call together two other Judges to his assistance to hear this Intervenor's said bill. The determination of Intervenor's motion has not yet been had, insofar as Intervenor is informed.

7

Intervenor alleges that this extraordinary and unusual condition has been brought about by the same complainants who are now seeking discretionary remedies from this Court, including the re-opening and final decree dismissing their bill, and also seeking discretionary relief by injunction.

8

Intervenor alleges that said order of the Florida Railroad Commission was illegal; that the order of the Circuit Court of Duval County, Florida, was illegal; and the said order of the United States District Court for the Northern District of Florida was likewise illegal, for that the said Court, presided over by one Judge, had no jurisdiction to enter the order which was entered, and which is above referred to. Nevertheless, each of said orders and judgments is being relied upon by complainants, and neither judgment has been reversed.

9

Intervenor avers that it is impracticable for this Court to give full relief in this situation while the above mentioned proceedings remain in the condition above described. If the order of the Circuit Court of Duval County, Florida, remains in force this Intervenor is enjoined, and will continue to be enjoined, from complying with any order which this Court may make in this cause, except insofar as it may happen to coincide with that [fol. 198] order. If the Florida Commission's order is in force the Interstate Commerce Commission's order cannot go into effect, except in the said limited territory. If the order of the District Court of the United States for the Northern District of Florida remains in effect this Intervenor is enjoined by final decree from putting into effect the order of the Interstate Commerce Commission, except in the limited territory as aforesaid. The complainants are thus seeking to impede the exercise of the jurisdiction of this court in the premises, unless that jurisdiction be exercised according to their conception of their rights.

10

This situation can be remedied by the act of the complainants.

11

Intervenor respectfully avers that the motion for rehearing and the supplemental pleadings of the complainants in this cause should not be considered by this court until the complainants have removed those things which embarrass this court in the determination of the subject matter.

Wherefore this Intervenor respectfully prays that this Honorable Court do not grant the petition to re-open this case or to grant a re-hearing, or to otherwise proceed therein, until the complainants shall have removed or caused to be removed the orders, judgments and decrees above referred to, or until they shall have done those things which may be required by this court, necessary to

[fol. 199] remove the conflicts of jurisdiction which has been caused by the said proceedings; and that none of the prayers of the complainant be considered unless and until the conditions referred to be released by them.

Respectfully submitted.

F. B. Grier, Carl H. Davis, W. E. Kay, Alston, Alston, Foster & Moise, Counsel for Atlantic Coast Line Railroad Company.

Received in Clerk's Office March 27, 1929.

[fol. 200] IN UNITED STATES DISTRICT COURT

[Title omitted]

ANSWER OF ATLANTIC COAST LINE RAILROAD COMPANY

Now comes the Atlantic Coast Line Railroad Company, the intervenor in the above mentioned cause, and answers the pleadings which are filed as a supplemental bill, and for answer says:

I

(a) This intervenor was the defendant in cause No. 18364 in the Interstate Commerce Commission in which the Georgia Public Service Commission was the petitioner.

(b) Intervenor owns and operates about 2,200 miles of rail line in the State of Florida; that it does business as a common carrier by railroad over its own lines in the States of Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama. It operates about 5,100 miles of its own line of rail, and that it is engaged in interstate and intrastate common carriage by railroad.

[fol. 201] (c) Intervenor admits the filing of the bill in the United States District Court for the Northern District of Georgia, as set out in paragraph 1 of the bill in this cause. The bill itself is referred to for its contents.

(d) It is admitted that answers were filed to said bill by the United States of America and the Interstate Commerce Commission, and that the Georgia Public Service Commission intervened and filed its answer.

(e) It is admitted that two other bills were filed at the same time and in the same court. It is admitted that there was a hearing in said cause as is set out in paragraph 1 of the bill in this case and that an opinion was handed down and that a decree was rendered dismissing each of the original bills. The decree and the opinion are referred to.

II

Intervenor denies the allegations of paragraph 2 of the bill in this case and more fully answers the same hereinafter.

III

Allegations of paragraph 3 of the bill require no answer.

IV

(a) Intervenor did file prior to October 5, 1928, with the Interstate Commerce Commission its tariff described in paragraph 4, sub-division "a" of the bill in this case, the object of which was to put into effect the rates prescribed by the Interstate Commerce Commission in its order entered August 2, 1928, in its aforementioned proceedings No. [fol. 202] 18364. The said rates are now in effect. The said filing was made with the Interstate Commerce Commission in compliance with that Commission's order of August 2, 1928.

(b) This intervenor did prior to October 5, 1928, file with the Interstate Commerce Commission its tariffs, putting into effect in intrastate commerce the rates on short logs described in paragraph 4-B of the bill; the said filings have been cancelled as to such intrastate transportation on the logs described in said bill as short logs. This was done because of the order of the Commission entered in said cause on the 5th day of February, which order was to the effect that the said short logs were not within the terms of the said order of August 2, 1928.

(c) The rates on said short logs above referred to were higher than those which had theretofore appertained in Florida intrastate transportation over the lines of this intervenor.

(d) The effective dates of the new rates were postponed until February 8, 1929.

V

The allegations of paragraph V of the bill are denied except that on the 30th day of January, 1929, the Railroad Commissioners of Florida entered what they termed to be an order effective instanter which dealt with the subject matter of the transportation of logs. That action of the Florida Commissioners did not recognize that the decision, opinion or decree of this Court was the law of the land but it is and was in direct violation thereof and was in misapplication and in mis-use of the decision of this court and [fol. 203] of the Interstate Commerce Commission. This will be further dealt with hereafter. The Florida Commissioners had no power or authority to issue said writing and it was null from the beginning.

VI

The allegations of paragraph VI of the bill are denied except that the Florida Commissioners did enter a writing which they called their order No. 979, which writing this intervenor avers was not for the purpose of giving force or effect to any order of the Interstate Commerce Commission or of this Court but for the purpose of breaking down both; and if the said order No. 979 should become effective the result would be practically a complete nullification of the order of this Commission and of the said order of this Court entered on the 17th day of January, 1929. It would have left no traffic, or practically no traffic, to be affected by the order of the Interstate Commerce Commission.

VII

The allegations of paragraph VII as pleaded are denied. On the 5th day of February, 1929, the Interstate Commerce Commission issued its supplemental order, declaring, in effect, that the logs, which are sometimes referred to as short logs, were not affected by its order of August 2, 1918. Until that date there had been no official action of the Commission on the subject. When that action was taken by the Interstate Commerce Commission, intervenor immediately conformed thereto.

VIII

The allegations of paragraph VIII of the bill are denied as pleaded. It is not made the duty of the Railroad Commissioners to proceed in the name of the State of Florida [fol. 204] as is set out in said paragraph. There is a discretion conferred by statute in said Commissioners to a certain extent and in a certain way, as is mentioned in the statute. It is denied that the Railroad Commissioners of Florida proceeded in pursuance of any duty so imposed as is set out in said paragraph VIII. The Florida Commissioners did file a bill in the Circuit Court of Duval County, Florida, as is referred to in said paragraph, and this was done in their own name and in the name of the State of Florida. The purpose of said bill was to enforce the aforementioned writing of the Commission called its order No. 979, which was void from its beginning, and to thereby annul for all practical purposes the said order of the Interstate Commerce Commission.

IX

It is true that this intervenor on the 4th day of February, 1929, filed its petition and bond for the removal of said last described suit to the United States District Court for the Southern District of Florida and that the removal was denied by the State Court. Immediately thereafter this intervenor caused the record in said proceedings in the Circuit Court of Duval County, Florida, to be filed in the said United States District Court for the Southern District of Florida and thereupon the Circuit Court of Duval County, Florida completely lost jurisdiction of the said cause by the proceedings to remove, if any it every had. Notwithstanding that, the State Court did proceed and did issue an injunction restraining and enjoining this intervenor from complying with the order of the Interstate Commerce Commission. The said State Court had no jurisdiction of the said cause from the beginning because the subject matter of the suit was an effort to annul or suspend in whole or in part an order of the Interstate Commerce Commission over [fol. 205] which it never had jurisdiction and its proceedings were utterly void.

X

Allegations of this paragraph have been heretofore answered.

XI

It is admitted that an ancillary petition or bill was filed in the United States District Court for the Southern District of Florida against the members of the Railroad Commission of Florida, as is set out in paragraph XI, seeking to restrain and enjoin the members of the Railroad Commission from prosecuting the said suit in the Circuit Court of Duval County, and this intervenor did move the Court for a temporary restraining order and injunction, as is set out in said paragraph.

XII

This intervenor did on February 7, 1929, file in the United States District Court for the Northern District of Florida, its bill in which it did assert that the order of the Interstate Commerce Commission of August 2, 1928, did require it, and does require it, to demand, charge and collect for the transportation of logs of the kind mentioned in and covered by said order as construed by the order of February 5, 1929, and it further alleged that the writing called order No. 979 of the Florida Railroad Commissioners was void. Intervenor did seek a restraining order and injunction, as is set out in this paragraph. The said matter did come on for hearing before the Honorable Wm. B. Sheppard, Judge of the said District Court, on February 7, 1929.

XIII

There is no paragraph numbered XIII in said bill.

XIV

The ancillary bill referred to in paragraph XI of the bill [fol. 206] and the bill referred to in paragraph XII were presented to Hon. Wm. B. Sheppard, Judge as aforesaid, at the same time. During the progress of the hearing of the said cause and on the 7th day of February, 1929, the Inter-

state Commerce Commission issued its order amending or clarifying its order of August 2, 1928, so that the rates intrastate on logs prescribed by the said order were made to apply over all of the lines of your intervenor in the State of Florida for intrastate transportation of such logs. On February 8, 1929, and during the progress of the trial of said cause, intervenor amended its bill so as to set out said order of the Interstate Commerce Commission of February 7, 1929, and thereupon answers and motions to dismiss which were filed by the complainants in this case were made applicable to the bill as amended and the United States District Court did then deny the prayers of intervenor in both bills and did dismiss each of them. Appeals were taken on February 13, 1929, to the Honorable, the Circuit Court of Appeals for the Fifth Circuit, and on the 14th day of February, 1929, that court entered its order restraining the appellee from enforcing the order of the Circuit Court of Duval County, Florida, hereinbefore referred to, and from enforcing the aforementioned writing called order No. 979 of the Florida Railroad Commission, the District Court having refused this relief. Said restraining order is in full force and effect and it is the only thing which prevents the utmost of confusion over this subject matter and the conflict of the jurisdictions of the United States and of the State of Florida.

XV

The allegations of paragraph XV of the bill as pleaded [fol. 207] are denied. The purpose of the order of the Interstate Commerce Commission of August 2, 1928, was to fix intrastate rates for transportation over the lines of the Atlantic Coast Line Railroad Company in Florida of logs of the kind covered by the said order and the report accompanying the said order. That order was made on ample evidence which not only justified the order but required its entry.

XVI

This intervenor denies that the order of the Interstate Commerce Commission of August 2, 1928, is void for any of the reasons set forth in this paragraph of said bill, and

avers that said order of said Commission is valid and of full force and effect.

Further answering said paragraph, intervenor denies that said order of the Interstate Commerce Commission is void because of any matter or thing set out in sub-paragraphs A, B, C, D, E, F or G of the said paragraph XVI of said bill.

Further answering the supplemental bill, this intervenor says:

XVII

The order of the Interstate Commerce Commission was issued after an investigation and the taking of a great deal of evidence orally and by way of statistical data. Petition was filed by the Georgia Public Service Commission with the Interstate Commerce Commission in May, 1926, and an order was rendered on August 2, 1928. In the meantime evidence was taken before an examiner of the Commission on October 20th, 21st and 22nd, 1926, at Valdosta, Georgia. Further evidence was taken in Jacksonville, Florida, before an examiner of the Commission on January 18th, 19th, 20th, and 21st, 1927. There were 53 exhibits offered and received in evidence. There were about 30 witnesses examined. The subject was investigated with [fol. 208] great detail. Many shippers and carriers intervened in said cause and the Florida Railroad Commissioners appeared in defense of the then Florida rates which were in question.

XVIII

Ample evidence was offered and received not only to justify, but to require, the order of the Interstate Commerce Commission; which order notified and required this intervenor to cease and desist from practicing the undue preference and advantage, undue prejudice, and unjust discrimination found in said report to exist in the relation of intrastate and interstate rates and to establish, put in force, and maintain in intrastate commerce within the State of Florida those rates which this intervenor has put into effect and is maintaining on logs, except walnut, cherry and cedar and which rates are otherwise described in the pleadings in this cause.

XIX

The evidence before the Interstate Commerce Commission showed:

(a) That the Florida Commissioners had in writing stated that the rates in Florida which were complained of were too low and were such as might be deemed confiscatory;

(b) That the rates which the Interstate Commerce Commission has ordered into effect in its order of August 2, 1928, are on substantially the same basis as the present rates under the scale prescribed by the Interstate Commerce Commission from points in South Carolina south of Columbia to Savannah, Georgia, and from South Carolina to destinations in North Carolina, and on logs from points on intervenor's line south of Charleston to Savannah;

[fol. 209] (c) That the charges per car of 50,000 pounds on logs from Live Oak, Florida, to Jacksonville, Florida, 128 miles, were $16.00, while from the same point of origin to Waycross, Georgia, 83 miles, the charges on the same logs are $35.00. This illustration is only one of many illustrations covered by the evidence as to the disparity of rates interstate and intrastate;

(d) That the rate intrastate in Florida on logs under the Florida scale known as the Cummer Scale, which was the scale under attack in this case, was not as much as one-half of the rate on the same logs moving over intervenor's line from points in Florida to points in Georgia. To illustrate; The rate on a car of 50,000 pounds from Jasper, Florida to Lake City, Florida, a distance of 69 miles, is $11.50 under the Cummer Scale, and from Jasper, Florida, to Valdosta, Georgia, a distance of 59 miles, the rate is $27.50;

(e) That the rates on logs in cars of 50,000 pounds covering interstate movements from points of origin in Florida to Georgia destinations were higher than the rates then applicable to the same transportation of the same commodity moving in the same circumstances intrastate in

Florida over the lines of this intervenor by from 46% to 233%;

(f) That a manufacturer of lumber in Georgia who would draw his logs from Florida points would be at a disadvantage in the eastern markets of about $60.00 per car of lumber as compared with the Florida producer who got his logs in Florida and moved them the same distances under the same circumstances of transportation. The said east-
[fol. 210] ern markets were desirable markets to the Florida and Georgia manufacturers;

(g) That a difference of $10.00 to $12.00 per car was a sufficient difference to keep a manufacturer of lumber thus discriminated against out of competition with the favored manufacturer;

(h) That the rates under said Cummer Scale were the lowest rates known to expert rate men for the transportation of logs anywhere in the United States;

(i) That the rates under the said Cummer Scale, that is the Florida intrastate scale complained of in said cause, are only from ⅓ to ½ of the rates on other commodities having like transportation characteristics, moving in similar circumstances, such as sand, gravel, lime, cement and brick;

(j) That the rate complained of was very much less than the rate for the same class of transportation on any other line of railroad doing business in Florida;

(k) That there are 64 saw mills along this intervenor's line in Georgia within 170 miles of Florida, and that these mills cannot compete with the Florida producer of lumber in the eastern markets because of the difference in the rates on the inbound logs, which rates were the subject of investigation in said cause;

(l) That the amount of the burden on interstate commerce made by the unduly low rates on said intrastate shipments of logs in Florida under the said Cummer Scale of rates, which were under attack in said cause, would amount to several millions of dollars:

(m) That the volume of the traffic covered by the said logs was such that the discrimination against interstate commerce would continue for many years;

[fol. 211] (n) That the difference in the rates under the Cummer Scale and in those under the properly established interstate scales applicable to logs moving over the lines of this intervenor was so great that the necessary commercial effect was to require the movement of logs in Florida to Florida manufacturing points, and to prevent the movement of said logs to Georgia manufacturing points, although the circumstances of transportation were equally as advantageous to the Georgia manufacturing points;

(o) That the effect of the rates under the Cummer Scale was to undertake to preserve this advantage to intrastate commerce at the expense of interstate commerce;

(p) The evidence showed many other kinds of discriminations which were unjust and unduly prejudicial to interstate commerce; and also showed that the discriminations above point- out were unjust, unduly prejudicial and unlawful.

XX

Intervenor alleges that the so-called order No. 979 of the Florida Commissioners, which is set out in the supplemental pleadings as Exhibit "A" thereto, was unlawful because it dealt with a subject matter over which the said Commissioners had no jurisdiction, to-wit: an order of the Interstate Commerce Commission, and it undertook to amend or annul said order in whole or in part. (The order of the Interstate Commerce Commission referred to being the one dated August 2, 1928). Also, because it undertook to make an order in conflict with the said order of the Interstate Commerce Commission, and also because it undertook to apply its own construction of the said order, which construction was in conflict with the opinion rendered in this [fol. 212] court on the same subject on the 17th day of January, 1929. In all events, the said order of the Florida Commissioners was unnecessary and unlawful.

XXI

The proceedings in the Circuit Court of Duval County were unlawful and were null and void for the reason that

the said court undertook to deal with a subject matter beyond its jurisdiction, that subject matter being the amendment or the annulling in whole or in part of the said order of the Interstate Commerce Commission. It was further null and void because the said cause had been removed to the proper United States District Court prior to the entry thereof.

XXII

The said order of the Florida Commissioners, No. 979, and the said proceedings by the Florida Commissioners in the Circuit Court of Duval County, Florida, make a direct conflict between the authority of the Federal Government and the acts of those who are undertaking to enforce the powers of the State of Florida.

XXIII

The rates for the intrastate transportation of logs in Florida prescribed as aforesaid by the Interstate Commerce Commission pursuant to lawful authority are the only lawful rates for such intrastate transportation of logs. Intervenor affirms that the said order #979 of the Florida Commission is unlawful and void and that the aforementioned order of the Circuit Court of Duval County, Florida is also unlawful and void. Any order which this Court may make in this cause sustaining the order of the Interstate Commerce Commission should in order to afford completely effective relief to intervenor, enjoin the said Florida Commissioners and their counsel and em- [fol. 213] ployees from enforcing either the said order of the Florida Commissioners or the said order of this Circuit Court of Duval County, Florida.

XXIV

Wherefore intervenor prays:

(1) That the prayers of the complainants be denied:

(2) That the Interstate Commerce Commission's order dated August 2, 1928, effective over all of the lines of this intervenor in the State of Florida, without exception, be held to be valid;

(3) That this court do those things and enter such orders and decrees as may be necessary or proper to make effective the said order of the Interstate Commerce Commission; and that it issue such restraining orders and injunctions, restraining and enjoining the complainants, who are the Florida Railroad Commissioners, and their attorneys and agents, from making or enforcing any order, rule, rate or regulation in conflict with said order of the Interstate Commerce Commission, and also from enforcing any order or decree of the Circuit Court of Duval County, Florida, heretofore entered or which may be entered, undertaking to interefere with the said order of the Interstate Commerce Commission;

(4) That all such orders, interlocutory and/or final, as may be necessary or appropriate to full relief in the premises be entered;

(5) Intervenor prays such other and further relief as may be meet and proper in the premises.

F. B. Grier, Carl H. Davis, W. E. Kay, Alston, Alston, Foster & Moise, Attorneys for Atlantic Coast Line R. R. Co.

[fol. 214] *Duly sworn to by Frank L. Glover. Jurat omitted in printing.*

Received in clerk's office March 27, 1929.

[fol. 215] INTERSTATE COMMERCE COMMISSION, WASHINGTON

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of orders of the Commission entered February 5 and February 7, 1929, in Case No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 1st day of March, A. D. 1929.

George B. McGinty, Secretary of the Interstate Commerce Commission. (Seal.)

Received in Clerk's Office Mar. 27, 1929.

At a session of the Interstate Commerce Commission, Division 4, held at its office, in Washington, D. C., in the 5th day of February, A. D., 1929.

No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

v.

ATLANTIC COAST LINE RAILROAD COMPANY

Upon further consideration of the record in the above-entitled proceeding, and for good cause shown:

It is ordered, That the order heretofore entered in this proceeding on August 2, 1928, be, and it is hereby, amended as follows: By inserting after "logs, except walnut, cherry, and cedar" in the second, third, and fourth paragraphs of said order the following: "and except ash, gum, hickory, oak, pine, and cypress logs not over six feet in length."

[fol. 216] It is further ordered, That in all other respects said order shall remain in full force and effect.

By the commission, division 4.

George B. McGinty, Secretary. (Seal.)

Order

At a session of the Interstate Commerce Commission, Division 4, held at its office, in Washington, D. C., on the 7th day of February, A. D., 1929.

No. 18364

GEORGIA PUBLIC SERVICE COMMISSION

v.

ATLANTIC COAST LINE RAILROAD COMPANY

Upon further consideration of our order heretofore entered in this proceeding on August 2, 1928, as amended by orders entered August 27th, October 19th, and November 30th, 1928, and February 5, 1929, and because of doubt that has arisen as to the territorial limits intended to be covered by that portion of said order of August 2, 1928,

as amended, prescribing intrastate rates within the State of Florida:

It is ordered, That the said order of August 2, 1928, as amended, be, and it is hereby, changed in language for the purpose of clarification as follows: In the fourth paragraph of said order of August 2, 1928, substitute for "within the State of Florida" the following: "within and throughout the entire State of Florida, without exception,"

By the Commission, Division 4.

George B. McGinty, Secretary. (Seal.)

[fol. 217] IN UNITED STATES DISTRICT COURT

[Title omitted]

OPINION ON REHEARING—Filed Mar. 22, 1929

On February 7th, 1929, subsequent to the decision in this case, the Interstate Commerce Commission ordered that its order of August 2nd, 1928 be "changed in language for the purpose of clarification as follows: In the 4th paragraph substitute for 'within the state of Florida' the following: 'within and throughout the entire State of Florida, without exception.'" A rehearing has been granted and the Atlantic Coast Line Railroad Company allowed to intervene in support of the order.

The ambiguity which we formerly found in the order of the Commission is now removed and the intent made clear that the intrastate log rate in question is to be changed over the entire Coast Line system in Florida. This clarifying order is not to be esteemed a new order, or even an amendment extending the former one, but is only a clarification of that which was found before to be uncertain, and [fol. 218] though made without further hearing or evidence, is none the less effective from its date, at least. We have therefore to examine the record more closely and see if a state wide change of the rate is sustainable. Except as to the territorial application of the order we find no occasion to modify what was previously ruled. The evidence does not show any actual or potential interstate commerce from South Florida in such logs as are involved in this rate.

Because of their cheapness and of the geography of the State the inherent probabilities are against it. No such case is, therefore, shown by the evidence as to justify a statewide order altering the intrastate rate because of undue prejudice to shippers and localities, or because of undue discrimination against the particular interstate commerce in such logs. There is, however, another discrimination against general interstate commerce when one state rate or the system of state rates is so low as to throw an undue burden on the revenues arising from interstate commerce in order to sustain the carrier engaged in both kinds of commerce. The natural remedy for such a condition is a change of the state rate or rates to the full extent of their application. The present order raising the state rate of the Atlantic Coast Line over its entire system in Florida we think is justified on this ground. The power to prescribe the state rate on a single commodity, over a single road, is included in the language of Section 13 (4) of the Commerce Act, whenever the conditions therein stated occur. If such a rate alone is put in issue and fully heard, the power is given to prescribe "the rate" to be thereafter observed. The complaint of the Georgia State Commission exhibited the Coast Line intrastate log rate and attacked it in its entirety and as applied to all points in Florida. There was no territorial limitation in the complaint. No such limitation was put on the inquiry by any subsequent amendment or by any order of the Commission. Besides a full attack upon the rate because of undue prejudice to and preference of persons and places in interstate commerce under Section 3, the complaint, in paragraph 11, attacked the rate expressly under Section 13 for every reason mentioned in [fol. 219] that Section as ground for prescribing a state rate. The rate was therefore in issue for all purposes of Section 13, although there was no express prayer for its enhancement and no express allegation that is was unprofitable to the carrier. The State of Florida was accordingly notified and the power and duty of the Commission as set forth in Section 13 (4) attached. Upon the hearings, it is true that the parties appeared interested mostly in North Florida because of prejudice to shipments there, and the great bulk of the evidence related thereto, but in addition to the common knowledge and skill in rate matters that the

Interstate Commerce Commission, the Georgia and Florida State Commissions and the railroads must have in such matters, there was a presentation in the evidence by the Coast Line and by the Florida Commission respectively, of the cost of service under the attacked rate and of its remunerativeness. Certainly no other litigant could have known the facts better than they. In rejecting the conclusion of slight net income asserted by the witnesses, the Commission did not rule out the basic facts shown, but was at liberty to supplement them and construe them for itself, and make its own conclusion from them. There was in evidence also comparisons of the attacked rate with rates on similar logs of other railroads in Florida and in adjacent states, and on other articles such as sand, gravel, brick, lime and cement, which like logs, are shipped in large lots, loaded and unloaded by patrons, and expose the carrier to little risk of loss. There was further comparison with interstate rates established by the Commission itself for this same railroad and in this same territory. All these rates were shown to be from twice to thrice the attacked log rate. On the face of things the log rate is too low and likely to burden the carrier. The Commission expressly finds that it is obviously unremunerative. It is shown that the Commerce in logs over the Coast Line system is and will continue to be very large and this item of its rates is therefore an important one. We cannot say the order is without evidence to sustain it on the ground that the former state rate was an undue discrimination against general [fol. 220] interstate commerce over the Coast Line railroads.

Because of the generalness of the complaint and the relative inconspicuousness of the evidence above discussed we have considered whether there was the full hearing which is made by Section 13, a prerequisite to the prescription of a state rate. We have seen that the parties to the establishment of that rate presented pertinent facts on this issue and all others had full opportunity to do so. When the examiner filed his report, on page 9 thereof he made an express finding on the unremunerativeness and burdensomeness of the rate, but favorable to it. The exceptions to his report and the replies thereto discussed this finding, but do not contend that it was foreign to the investigation, but only

whether it was right or wrong under the evidence. So, when Division 4 of the Commission disagreed with the examiner on this and other findings and an application for rehearing before the entire Commission was made, there is again no motion to reopen the case for more evidence on this point, but all that is asked is more opportunity for argument on the evidence already taken, one set of litigants contending that the evidence required one conclusion and the other side contending the contrary. There is before us no distinct claim that any other important evidence could or would be offered on another hearing. We find no reason to doubt that, however disappointing the result, the hearing was full within the meaning of the statute, and the power of the Interstate Commerce Commission not abused.

This 22 day of March, 1929.

Sam'l H. Sibley, U. S. Judge.

[fol. 221] In United States District Court

In Equity. No. 514

State of Florida and A. S. Wells, E. S. Matthews, and Mamie G. Eaton, as and Constituting Florida Railroad Commission, Complainants,

vs.

United States of America and Interstate Commerce Commission, Defendants

Final Decree on Rehearing—Filed April 22, 1929.

In the above case, on petition of Complainants to open our former decree entered on January 17th, 1929, denying relief and dismissing the original bill, a rehearing was granted and said decree reopened, and thereupon the Atlantic Coast Line Railroad Company, on its petition, was allowed to intervene in support of the order of the Interstate Commerce Commission of August 2nd, 1928.

The case was submitted for final decree on the reargument and rehearing, to a court of three judges, to-wit: Hon. Richard W. Walker, United States Circuit Judge, Hon.

Samuel H. Sibley, United States District Judge, and Hon. Benjamin C. Dawkins, United States District Judge.

After hearing argument on the same evidence as at the first hearing, and the Court being fully advised:

It is, for the reasons stated in our opinion March 22nd, 1929 (which opinion is duly filed as part of the record), ordered, adjudged and decreed that the original and supplemental bill be and the same hereby is now dismissed and the [fol. 222] relief prayed denied.

This 17th day of April, 1929.

R. W. Walker, United States Circuit Judge. Ben C. Dawkins, United States District Judge. Sam'l H. Sibley, United States District Judge.

[File endorsement omitted.]

[fol. 223] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL—Filed June 6, 1929

The State of Florida, and A. S. Wells, E. S. Matthews and Mamie G. Eaton, as and constituting Florida Railroad Commission, complainants, feeling themselves aggrieved by the final order or decree of the United States District Court for the Northern District of Georgia, dated April 17, 1929, and entered April 22, 1929, which denied the relief sought and dismissed the bill and supplemental bill, pray an appeal therefrom to the Supreme Court of the United States, for the reasons set forth in the assignment of errors filed herewith. They pray that appeal be allowed and that citation be issued as provided by law, and that the transcript of the record, proceedings and document upon which said decree was based, duly authenticated, be sent to the Supreme Court of the United States.

Fred H. Davis, as Attorney General; T. T. Turnbull, Solicitors for State of Florida and A. S. Wells, E. S. Matthews, and Mamie G. Eaton, as and Constituting Florida Railroad Commission.

[fol. 224] IN UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENT OF ERRORS—Filed June 6, 1929

The State of Florida, and A. S. Wells, E. S. Matthews and Mamie G. Eaton, as and constituting Florida Railroad Commission, complainants herein, by their respective counsel, now come and in connection with their Petition for Appeal file the following Assignment of Errors on which they will rely on their appeal to the Supreme Court of the United States from the final order or decree of the District Court herein, dated April 17, 1929, and entered April 22, 1929.

The District Court erred:

I

In denying the relief prayed, and in dismissing the bill and supplemental bill.

II

In failing and refusing to find that the report and order of the Interstate Commerce Commission of August 2, 1929, as amended February 7, 1929, constitute an unlawful exercise of power by said Commission and are without warrant or authority of or under the Constitution of the United States.

[fol. 225]

III

In failing and refusing to find that there is not and cannot be any interstate commerce in logs over the Atlantic Coast Line Railroad from Florida origins to Georgia destinations on its line.

IV

In failing and refusing to find that the compulsory increase of the Florida intrastate rates on logs of the Atlantic Coast Line Railroad Company could not and did not result in the creation of interstate commerce in logs over the Atlantic Coast Line Railroad Company from Florida to Georgia.

V

In failing and refusing to find that there was no substantial evidence of record before the Interstate Commerce Commission showing or tending to show that substantially similar circumstances and conditions surrounded the transportation of logs by railroad on the one hand over the Atlantic Coast Line Railroad Company between points in Florida and on the other hand from origins on its line in Florida to destinations in Georgia.

VI

In failing and refusing to find that there was no issue or controversy under the issues as restricted and defined at the hearing before the Interstate Commerce Commission as to the question that the lower level of the Florida intrastate log rates of the Atlantic Coast Line Railroad Company caused or would cause unjust discrimination against interstate commerce as such in violation of Section 13 of the interstate commerce act.

VII

In failing and refusing to find that the report and order of the Interstate Commerce Commission as amended are unlawful because said Commission has thereby sought to embrace within the scope thereof all rates of the Atlantic Coast Line Railroad Company on logs between any stations on its line wholly within the State of Florida for any [fol. 226] length of haul, not exceeding 170 miles, and in any portion of such State, although there was no case or controversy submitted to that tribunal or pending before it involving in any way freight rates of the Atlantic Coast Line Railroad Company on logs within Florida, except for hauls of 170 miles and less over such railroad wholly within the so-called Northern portion of the State of Florida.

VIII

In failing and refusing to find that the said order as amended is invalid because of its territorial scope, in that said order as amended fixes the intrastate rates on logs between all points on all the lines of the Atlantic Coast

Line Railroad Company in Florida, whereas the intrastate rate investigation in said proceedings before the Interstate Commerce Commission was limited to movements of logs between points on only a portion of the lines of said Atlantic Coast Line Railroad Company located in only a small area situated in Northern Florida.

IX

In failing and refusing to find that there was no evidence whatsoever before the Interstate Commerce Commission supporting or tending to support the conclusion that the continued maintenance of the Florida intrastate log rates of the Atlantic Coast Line Railroad Company would subject interstate commerce to unjust discrimination in violation of Section 13 of the interstate commerce act.

X

In failing and refusing to find that the report and order of the Interstate Commerce Commission are unlawful because they seek to interfere with the voluntary continuance of the Florida intrastate rates on logs over its line by the Atlantic Coast Line Railroad Company without any substantial evidence showing or tending to show that the continuance of such Florida intrastate log rates in any way violates the provisions of Section 3 or 13 of the Interstate [fol. 227] Commerce Act, and without any request or petition by said Atlantic Coast Line Railroad Company by the Georgia Public Service Commission, or by any other party to either the Interstate Commerce Commission or to the Florida Railroad Commission to increase such Florida intrastate log rates, and without any other effort whatsoever by said Atlantic Coast Line Railroad Company to increase said rate.

XI

In failing and refusing to find that the report and order of the Interstate Commerce Commission are unlawful because there was no substantial evidence to support the finding that such Florida intrastate log rates are less than reasonably compensatory.

XII

In failing and refusing to find that the report and order of the Interstate Commerce Commission are unlawful because the facts of record before the Commission do not show that there is or would be any real or substantial injury to or restriction upon interstate commerce as a consequence of the continued maintenance of the Florida intrastate log rates of the Atlantic Coast Line Railroad Company.

XIII

In failing and refusing to find that the report and order of the Interstate Commerce Commission constitute an unlawful invasion of the sovereign rights of the State of Florida reserved to it under the Constitution of the United States and of the citizens of the State of Florida and is without any warrant or authority of or under the Constitution of the United States, and, further that said Interstate Commerce Commission was and is without jurisdiction to enter said report and order.

XIV

In failing and refusing to find that the issue as to whether the lower level of the Florida intrastate log rates of the [fol. 228] Atlantic Coast Line Railroad Company cause or would cause unjust discrimination against interstate commerce in violation of Section 13 when construed with Section 15a of the Interstate Commerce Act, was eliminated from the proceeding before the Commission by the parties thereto.

XV

In failing and refusing to find that the intrastate rates, investigated by the Interstate Commerce Commission, were not those contemplated by Section 13 (4) of the Interstate Commerce Act, as amended, because same were voluntarily initiated by the carrier, and therefore not "made or imposed by authority of any State", within the description of Section 13 (3) of said Act.

XVI

In failing and refusing to find that the report and order of the Interstate Commerce Commission as amended are un-

lawful because there were no facts of record in such proceeding before the Interstate Commerce Commission showing, or tending to show, nor did the Interstate Commerce Commission find any facts sufficient to constitute, unjust discrimination against interstate commerce in violation of the provisions of Section 13 of the Interstate Commerce Act.

XVII

In holding that the order of the Interstate Commerce Commission of August 2, 1928, as amended on February 7, 1929, was within the issues sought to be investigated by said Commission.

XVIII

In holding that said order of the Interstate Commerce Commission was made after full hearing by said Commission.

XIX

In holding that the report and order of the Interstate Commerce Commission raising the state rate of the Atlantic Coast Line Railroad Company over its entire system in Florida on logs is justified in order to remove discrimination against general interstate commerce in that said [fol. 229] Florida intrastate log rates are so low as to throw an undue burden on the revenues arising from interstate commerce.

XX

In the holding that "there was no territorial limitation in the complaint. No such limitation was put on the inquiry by any subsequent amendment or by any order of the Commission. * * * The rate was therefore in issue for all the purposes of Section 13, although there was no express prayer for its enhancement, and no express allegation that it was unprofitable to the carrier."

XXI

In holding that "in rejecting the conclusion of slight net income asserted by the witnesses, the Commission did not rule out the basic facts shown, but was at liberty to supplement them and construe them for itself, and make its own conclusion from them."

XXII

In holding that the Interstate Commerce Commission, in reaching its conclusion respecting the Florida intrastate rates on logs, was entitled to rely upon "the common knowledge and skill in rate matters that the Interstate Commerce Commission, the Georgia and Florida State Commissions, and the railroads must have in such matters."

XXIII

In the holding that "on the face of things the log rate is too low, and likely to burden the carrier."

XXIV

In holding that "we cannot say that the order is without evidence to sustain it, on the ground that the former state rate was an undue discrimination against general interstate commerce over the Coast Line Railroads."

XV

In holding that the complainants in their reply to the exceptions of said Georgia Public Service Commission to [fol. 230] the report of the examiner of the Interstate Commerce Commission failed to contend that the finding of said report with respect to the burdensomeness of said rate was foreign to said investigation.

XXVI

In holding that the complainants in their application for a re-hearing before the entire Interstate Commerce Commission failed to contend that the burdensomeness of the Florida intrastate rate was foreign to the investigation had by said Interstate Commerce Commission.

XXVII

In failing to suspend, annul and permanently enjoin the Commission's order of August 2, 1928, as amended from time to time in order to extend the effective date thereof, and as changed in language for the purpose of clarification

on February 7, 1929, insofar as said order applied to rates on the intrastate transportation of logs in Florida.

Wherefore complainants and each of them pray that the final order or decree of the District Court dated April 17, 1929, and entered April 22, 1929 be reversed and that the matter be remanded to said Court with instructions to suspend, annul and permanently enjoin said order of the Commission entered on August 2, 1928 (and changed in language for the purpose of clarification on February 7, 1929) in the proceeding before the Commission cited Georgia P. S. Commission v. A. C. L. R. R. Co., 146 I. C. C. 717, insofar as said order applied to the rates on the transportation of logs intrastate within the State of Florida over the lines of the Atlantic Coast Line Railroad Company.

Fred H. Davis, as Attorney General; T. T. Turnbull, Solicitors for State of Florida and A. S. Wells, E. S. Matthews, and Mamie G. Eaton, as and Constituting Florida Railroad Commission.

[fol. 231] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER GRANTING APPEAL—Filed June 19, 1929

The complainants having filed their petition for appeal herein, the same is hereby granted and the complainants are hereby allowed to appeal said cause, and

It is ordered that said appeal be and the same is hereby entered to the Supreme Court of the United States upon the filing of a bond by said complainants in the sum of Five Hundred Dollars ($500.00) with good and sufficient surety to be approved by this Court, conditioned upon the said complainants prosecuting their appeal to effect, and answering all costs if they fail to make their plea good.

This 6th day of June, A. D. 1929.

R. W. Walker, United States Circuit Judge. Ben C. Dawkins, United States District Judge. Sam'l H. Sibley, United States District Judge.

[fols. 232 & 233] Bond on appeal for $500.00 approved and filed June 13, 1929, omitted in printing.

[fol. 234] In United States District Court

Notice of Appeal to the Attorney General, State of Georgia—Filed June 20, 1929

Atlanta, Georgia, June 19, 1929.

To the Honorable George Napier, Attorney General, State of Georgia, Atlanta, Georgia.

Dear Sir: Please take notice that by order of the United States District Court for the Northern District of Georgia, made and entered June 6, 1929, appeal to the Supreme Court of the United States by complainants has been taken and allowed in the following cases:

State of Florida et al. v. United States of America et al., in Equity, No. 514.

Wilson Lumber Co. of Florida v. United States of America et al., in Equity, No. 512.

Brooks-Scanlon Corp. et al. v. United States of America et al., in Equity, No. 511.

Fred Davis, H. P. Osborne, G. T. Rutherford, J. V. Norman, Chas. E. Cotterill, August Gutheim, H. P. Adair, Counsel for Appellants.

Acknowledgment

The foregoing notice received this 19th day of June, 1929.

T. R. Gress, Asst. Attorney General, State of Georgia.

[fol. 235] In United States District Court

[Title omitted]

Præcipe for Transcript of Record—Filed June 20, 1929

To the Clerk of the above-entitled Court:

Please prepare a Transcript of the record in the above-entitled causes in the matter of Appeals therein, and in-

clude in said transcript in the order given below the following matter, viz:

[fol. 236] In No. 514

1. Bill of Complaint filed by Complainants November 27, 1928.

2. Notice of Application for Interlocutory Injunction by Complainants, served November 28, 1928.

3. Answer of United States of America filed December 24, 1928.

4. Petition for Intervention as Party Defendant by Georgia Public Service Commission, and Order dated December 29, 1928, granting petition, filed December 29, 1928.

5. Answer of Georgia Public Service Commission filed December 29, 1928.

6. Answer of Interstate Commerce Commission filed January 3, 1929.

7. Order of Court, made and entered January 3rd, 1929, that the three proceedings, Nos. 514, 511, and 512, be consolidated for the purpose of trial.

8. Certified copy of Transcript of Record of the Evidence and Proceedings before the Interstate Commerce Commission in the matter entitled, No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, offered in evidence by counsel for all the Complainants jointly in Nos. 514, 511, and 512, and so received, (or in lieu thereof any narrative statement of the record of said evidence and proceedings agreed upon by the parties, and/or approved by the Court).

9. Opinion of the Court, dated and filed January 17, 1929.

10. Order of the Court on submission for final decree, denying the relief prayed by Complainants and dismissing the Bill, dated and filed January 17, 1929.

11. Petition for re-hearing filed by Complainants February 21, 1929.

12. Supplemental Bill of Complaint, tendered by Complainants February 21, 1929, and received in the Clerk's office of the above-entitled Court on said date, together with the Exhibits therein mentioned and made a part thereof, said exhibits being marked Exhibits A, B, C, D, E, and F, to said Supplemental Bill.

13. Notice of Application for Temporary Injunction filed by Complainants March 1, 1929.

14. Order Entertaining Petition for Re-hearing and to show Cause, dated the 21st day of February, 1929, and received in the Clerk's office of the above-entitled Court February 21, 1929.

[fol. 237] 15. Return of United States of America to Rule to show Cause.

16. Answer of the United States to the Supplemental Bill of Complaint, sworn to March 1st, 1929.

17. Order of Court, made and entered March 7th, 1929, granting the petition of complainants for a re-hearing and permitting the complainants to file their supplemental bill of complaint herein, and also granting the motion of Atlantic Coast Line Railroad Company for leave to intervene.

18. Petition of Atlantic Coast Line Railroad Company to intervene in this Cause, and Order dated March 7, 1929, granting said Petition and allowing said Atlantic Coast Line Railroad Company to Intervene in this cause.

19. Motion of Atlantic Coast Line Railroad Company Preliminary to Pleading to the Merits of this Case.

20. Answer or Intervention of Atlantic Coast Line Railroad Company, sworn to March 6, 1929.

21. Copies of orders of the Interstate Commerce Commission entered February 5 and February 7, 1929, in Case No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, together with Certificate of Secretary of Interstate Commerce Commission, dated the 1st day of March, A. D. 1929, thereto attached.

22. Order of Court, made and entered March 7th, 1929, that the intervention filed on behalf of Atlantic Coast Line Railroad Company be referred to the trial of this cause on the merits.

23. Opinion of the Court, dated and filed March 22, 1929.

24. Final Decree of Re-hearing, dismissing the Original and Supplemental Bills and denying the relief prayed, dated the 17th day of April, 1929, filed April 22, 1929.

25. Petition for Appeal, filed by Complainants June 6, 1929.

26. Assignment of Errors filed by Complainants June 6, 1929.

27. Order of the above-entitled Court granting Appeal, dated June 6, 1929.

[fol. 238] 28. Bond on Appeal, approved June —, 1929, filed June —, 1929.

29. Citation on Appeal, dated June 6th, 1929.

30. Notice of Appeal addressed to Attorney General of the State of Georgia, filed June 20th, 1929.

31. This Præcipe for Transcript of Record, filed June 29th, 1929.

32. All acknowledgments of receipt of copies of petition for appeal, Assignment of Errors, Order Granting Appeal, Citation on Appeal and Præcipe for Transcript of Record, such acknowledgments being signed by attorneys for United States of America, Interstate Commerce Commission, Georgia Public Service Commission, and Atlantic Coast Line Railroad Company,

In No. 511

1. Bill of Complaint filed by Complainants November 24, 1928.

2. Notice of Application for Interlocutory Injunction by Complainants, served November 26, 1928.

3. Answer of United States of America filed December 24, 1928.

4. Petition for Intervention as Party Defendant by Georgia Public Service Commission, and Order dated December 29, 1928, granting petition, filed December 29, 1928.

5. Answer of Georgia Public Service Commission filed December 29, 1928.

6. Answer of Interstate Commerce Commission filed January 3, 1929.

7. Order of Court, made and entered January 3, 1929, that the three proceedings, Nos. 514, 511 and 512, be consolidated for the purpose of trial.

NOTE.—This is the identical order described in Item 7 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 2; printed pages —.)

8. Certified copy of Transcript of Record of the Evidence and Proceedings before the Interstate Commerce Commission in the matter entitled No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company,

offered in evidence by counsel for all the Complainants jointly in Nos. 514, 511, and 512, and so received (or in lieu thereof any narrative statement of the record of evidence agreed upon by the parties, and/or approved by the Court.)

[fol. 239] NOTE.—This is the identical document described in Item 8 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 2; printed pages —.)

9. Opinion of the Court, dated and filed January 17, 1929.

NOTE.—This is the identical document described in Item 9 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 2; printed pages —.)

10. Order of the Court on submission for final decree, denying the relief prayed for by Complainants and dismissing the Bill dated and filed January 17, 1929.

11. Petition for Re-hearing filed by Complainants February 21, 1929.

12. Supplemental Bill of Complaint, tendered by Complainants February 21, 1929, and filed on said date, together with the Exhibits therein mentioned and made a part thereof, said Exhibits being marked Exhibits A, B, C, D, E, and F to said Supplemental Bill.

NOTE.—Said Exhibits marked A, B, C, D, E, and F to said Supplemental Bill are the identical documents described respectively in Item 12 of the documents in No. 514 as Exhibits A, B, C, D, E, and F to the Supplemental Bill of Complaint of the State of Florida et al., and are here incorporated by reference thereto. (See original page 2; printed pages —.)

13. Notice of Application for Temporary Injunction filed by Complainants March 1, 1929.

14. Order entertaining Petition for Re-hearing and to Show Cause, dated the — day of February, 1929, and filed February 21, 1929.

15. Return of the United States of America to Rule to Show Cause.

16. Answer of the United States to the Supplemental Bill of Complaint, sworn to March 1, 1929.

17. Order of Court, made and entered March 7, 1929, granting the petition of complainants for a re-hearing and permitting the complainants to file their supplemental bill of complaint herein, and also granting the motion of Atlantic Coast Line Railroad Company for leave to intervene.

NOTE.—This is the identical order described in Item 17 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 3; printed pages —.)

18. Petition of Atlantic Coast Line Railroad Company to Intervene in this Cause, and Order dated March 7, 1929, granting said petition and allowing said Atlantic Coast Line Railroad Company to intervene in this cause.

[fol. 240] 19. Motion of Atlantic Coast Line Railroad Company preliminary to Pleading to the Merits of this Case.

20. Answer or Intervention of Atlantic Coast Line Railroad Company, sworn to March 6, 1929.

21. Copies of Orders of the Interstate Commerce Commission entered February 5 and February 7, 1929, in Case No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, together with Certificate of Secretary of Interstate Commerce Commission, dated the 1st day of March, A. D., 1929, thereto attached.

NOTE.—These are the identical documents described in Item 21 of the documents in No. 514, and are here incorporated by reference thereto. (See original page 3; printed pages —.)

22. Order of Court, made and entered March 7th, 1929, that the intervention filed on behalf of Atlantic Coast Line Railroad Company be referred to the trial of this cause on the merits.

NOTE.—This is the identical order described in Item 22 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 3; printed pages —.)

23. Opinion of the Court, dated and filed March 22, 1929.

NOTE.—This is the identical document described in Item 23 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 3; printed pages —.)

24. Final Decree on Re-hearing, Dismissing the Original and Supplemental Bill and Denying the Relief Prayed, dated the 17th day of April, 1929, filed April 22, 1929.

25. Petition for Appeal, filed by Complainants June 6th, 1929.

26. Assignment of Errors filed by Complainants June 6th, 1929.

27. Order of the above-entitled Court granting Appeal, dated June 6th, 1929.

28. Bond on Appeal, approved June 13th, 1929, Filed June 13th, 1929.

29. Citation on Appeal, dated June 6th, 1929.

30. Notice of Appeal addressed to Attorney General of the State of Georgia, filed June 20th, 1929.

NOTE.—This is the identical document described in Item 30 of the documents in No. 514, and is here incorporated by references thereto. (See original page 4; printed pages —.)

31. This Præcipe for Transcript of Record, Filed June 29th, 1929.

NOTE.—This is the identical document described in Item 31 of the documents in No. 514, and is here incorporated by references thereto. (See original page 4; printed pages —.)

[fol. 241] 32. All acknowledgments of receipt of copies of petition for appeal, Assignment of Errors, Order Granting Appeal, Citation on Appeal, and Praecipe for Transcript of Record, such acknowledgments being signed by attorneys for United States of America, Interstate Commerce Commission, Georgia Public Service Commission, and Atlantic Coast Line Railroad Company.

In No. 512

1. Bill of Complaint filed by Complainant November 26, 1928.

2. Application for Interlocutory Injunction and Notice thereof filed November 28, 1928.

3. Answer of United States of America filed December 24, 1928.

4. Petition for Intervention as Party Defendant by Georgia Public Service Commission and Order dated December 29, 1928, granting Petition filed December 20, 1928.

5. Answer of Georgia Public Service Commission filed December 29, 1928.

6. Intervention of Interstate Commerce Commission filed January 3, 1929.

7. Answer of Interstate Commerce Commission filed January 3, 1929.

8. Order of Court, made and entered January 3, 1929, that the three proceedings, Nos. 514, 511, and 512, be consolidated for the purpose of trial.

NOTE.—This is the identical order described in Item 7 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 2; printed pages —.)

9. Certified copy of Transcript of Record of the Evidence and Proceedings before the Interstate Commerce Commission entitled No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, offered in evidence by counsel for all the Complainants jointly (or in lieu thereof any narrative statement of the record of evidence agreed upon by the parties, and/or approved by the Court.

NOTE.—This is the identical document described in Item 8 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 2; printed pages —.)

10. Opinion of the Court, dated and filed January 17, 1929.

NOTE.—This is the identical document described in Item 9 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 2; printed pages —.)

[fol. 242] 11. Order of the Court, on submission for final decree, denying the relief prayed for by Complainant and dismissing the Bill, dated and filed January 17, 1929.

12. Petition for Re-hearing filed by Complainant February 21, 1929.

13. Supplemental Bill of Complaint tendered by Complainant February 21, 1929, and received in the Clerk's office of the above-entitled Court on said date, together with the Exhibit therein mentioned, and made a part thereof, said Exhibit being marked Exhibit D to Said Supplemental Bill.

NOTE.—Said Exhibit marked D to Said Supplemental Bill is the identical document described in Item 12 of the documents in No. 514 as Exhibit D to the Supplemental Bill of Complaint of the State of Florida et al., and is here incorporated by reference thereto. (See original page 2; printed pages —.)

14. Notice of Application for Temporary Injunction filed by Complainant March 1, 1929.

15. Order Entertaining Petition for Re-hearing and to show cause, dated the 21st day of February, 1929.

16. Return of United States of America to Rule to Show Cause.

17. Answer of the United States to the Supplemental Bill of Complaint, sworn to March 1, 1929.

18. Order of Court, made and entered March 7, 1929, granting the petition of complainants for a re-hearing and permitting the complainants to file their supplemental bill of complaint herein, and also granting the motion of Atlantic Coast Line Railroad Company for leave to intervene.

NOTE.—These are the identical documents described in Item 21 of the documents in No. 514, and are here incorporated by reference thereto. (See original page 3; printed pages —.)

19. Petition of Atlantic Coast Line Railroad Company to Intervene in this Cause, and Order dated March 7, 1929, granting said Petition and allowing said Atlantic Coast Line Railroad Company to intervene in this cause.

20. Motion of Atlantic Coast Line Railroad Company Preliminary to Pleading to the Merits of this Case.

21. Answer or Intervention of Atlantic Coast Line Railroad Company, sworn to March 6, 1929.

22. Copies of Orders of the Interstate Commerce Commission entered February 5 and February 7, 1929, in Case [fol. 243] No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, together with Certificate of Secretary of Interstate Commerce Commission dated the 1st day of March, A. D., 1929, thereto attached.

NOTE.—These are the identical documents described in Item 21 the doucments in No. 514, and are here incorporated

by reference thereto. (See original page 3; printed pages —.)

23. Order of Court, made and entered March 7th, 1929, that the intervention filed on behalf of Atlantic Coast Line Railroad Company be referred to the trial of this cause on the merits.

NOTE.—This is the identical order described in Item 22 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 3; printed pages —.)

24. Opinion of the Court, dated and filed March 22, 1929.

NOTE.—This is the identical document described in Item 23 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 3; printed pages —.)

25. Final Decree on Re-hearing, dismissing the Original and Supplemental Bill and denying the relief prayed, dated the 17th day of April, 1929, filed April 22, 1929.

26. Petition for Appeal, filed by Complainant June 6th, 1929.

27. Assignment of Errors filed by Complainant June 6th, 1929.

28. Order of the above-entitled Court allowing Appeal, dated June 6th, 1929.

29. Bond on Appeal, approved June 13th, 1929, filed June 13th, 1929.

30. Citation on Appeal, dated June 6th, 1929.

31. Notice of Appeal addressed to Attorney General of the State of Georgia filed June 20th, 1929.

NOTE.—This is the identical document described in item 30 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 4; printed pages —.)

32. This Præcipe for Transcript of Record, filed June 20th, 1929.

NOTE.—This is the identical document described in item 31 of the documents in No. 514, and is here incorporated by reference thereto. (See original page 4; printed pages —.)

33. All acknowledgments of receipt of copies of Petition [fol. 244] for Appeal, Assignment of Errors, Order Granting Appeal, Citation on Appeal, and Præcipe for Tran-

script of Record, such acknowledgments being signed by attorneys for United States of America, Interstate Commerce Commission, Georgia Public Service Commission, and Atlantic Coast Line Railroad Company.

Fred H. Davis, T. T. Turnbull, Solicitors for State of Florida and A. S. Wells, E. S. Mathews, and Mamie G. Eaton, as and Constituting Florida Railroad Commission. Chas. E. Cotterill, August G. Gutheim, H. P. Adair, Geo. L. Rutherford, E. W. Mitchell, Solicitors for Brooks-Scanlon Corporation, Cummer Cypress Company, and Wilson Cypress Company. J. V. Norman, Norman, Quirk & Graham, Solicitors for Wilson Lumber Company of Florida.

[fol. 245] In United States District Court

Acknowledgment of Service—Filed June 20, 1929.

Service is hereby acknowledged by each, the Georgia Public Service Commission, and Atlantic Coast Line Railroad Company, defendants, of copies of the following described appeal papers in the above entitled cause:

1. Complainants' Petition for Appeal.
2. Complainants' Assignment of Errors.
3. Order of the District Court granting Appeal.
4. Præcipe for transcript of record.

Jas. A. Perry, Atty. for Georgia Public Service Commission. Alston, Alston, Foster & Moise, for Atlantic Coast Line Railroad Company.

Dated this 20th day of June, A. D. 1929.

[fols. 246-250] Citation, in usual form, showing service on Elmer B. Collins and J. Stanley Payne et al., filed June 20, 1929, omitted in printing.

[fol. 251] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 252] IN UNITED STATES DISTRICT COURT

[Title omitted]

This package constitutes item No. 8 (of the præcipe), described as:

"8. Certified copy of Transcript of Record of the Evidence and Proceedings before the Interstate Commerce Commission in the matter entitled No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, offered in evidence by counsel for all the Complainants jointly in Nos. 514, 511 and 512, and so received (or in lieu thereof any narrative statement of the record of said evidence and proceedings agreed upon by the parties, and/or approved by the Court)."

[fol. 253] BEFORE INTERSTATE COMMERCE COMMISSION, WASHINGTON

SECRETARY'S CERTIFICATE

I, George B. McGinty, secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the following:

Complaint filed May 3, 1926,

Answer of Atlantic Coast Line R. R. Co. filed June 26, 1926,

Intervening petition of Elberta Crate Company and order of the Commission entered July 3, 1926, permitting same,

Intervening petition of Jacksonville Traffic Bureau and order of the Commission entered July 26, 1926, permitting same,

Intervening petition of Georgia-Florida Sawmill Association and order of the Commission entered August 5, 1926, permitting same,

Intervening petition of Southern Cypress Manufacturers' Association and order of the Commission entered August 9, 1926, permitting same,

Intervening petition of Southern Pine Association and order of the Commission entered August 14, 1926, permitting same,

Intervening petition of the Seaboard Air Line Railway Company, Central of Georgia Railway Company, Southern Railway Company and Georgia Southern and Florida Railway Company and order of the Commission entered August 17, 1926, permitting same,

Intervening petition of American Short Line Railroad Association and order of the Commission entered September 2, 1926, permitting same.

Intervening petition of Brooks-Scanlon Corporation and order of the Commission entered September 29, 1926, permitting same,

[fol. 254] Amended intervening petition of Jacksonville Traffic Bureau and order of the Commission entered September 14, 1926, permitting same,

Amended intervening petition of Southern Cypress Manufacturers Association and order of the Commission entered September 14, 1926, permitting same,

Amended intervening petition of Southern Pine Association and order of the Commission entered September 14, 1926, permitting same,

Amended intervening petition of Georgia-Florida Sawmill Corporation and order of the Commission entered October 16, 1926, permitting same,

Transcript of the stenographer's notes of the hearing held at Valdosta, Ga., October 20, 21 and 22, 1926, before Examiners F. C. Hillyer and R. M. Brown and of exhibits and intervening petitions filed at said hearing,

Transcript of the Stenographer's notes of the hearing held at Jacksonville, Fla., January 18-21, 1927, before Examiner R. M. Brown and of exhibits filed at said hearing,

Report proposed by R. M. Brown, Examiner,

Exceptions to proposed report filed by Georgia Public Service Commission,

Exceptions to proposed report filed on behalf of Seaboard Air Line Railway Company, et al.,

Reply to exceptions to proposed report filed by Florida Railroad Commission,

[fol. 255] Reply to exceptions to proposed report filed by Jacksonville Traffic Bureau,

Reply to exceptions to proposed report filed by Southeastern Forest Products Association,

Reply to exceptions to proposed report filed by Brooks-Scanlon Corporation, et al.,

Report and order of the Commission filed and entered August 2, 1928,

Petition of Brooks-Scanlon Corporation, et al., for postponement of effective date of order filed Agust 24, 1928,

Petition of Railroad Commission of the State of Florida for postponement of the effective date of order filed August 29, 1928,

Protesting petition of Georgia Public Service Commission for postponement of effective date of order filed August 27, 1928,

Order of the Commission entered August 27, 1928,

Petition for reargument and reconsideration filed by Brooks-Scanlon Corporation, et al., October 1, 1928,

Petition for reargument and reconsideration filed by Railroad Commission of the State of Florida October 1, 1928,

Petition of Wilson Lumber Company of Florida for leave to intervene and for reconsideration and reargument filed October 1, 1928,

Petition of Railroad Commission of the State of Florida [fol. 256] for postponement of the effective date of the order filed October 19, 1928,

Order of the Commission entered October 19, 1928,

Protesting petition of Georgia Public Service Commission for postponement of effective date of order filed October 22, 1928, and

Order of the Commission entered November 1, 1928, in Case No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railway, the originals of which are now on file and of record in the office of this Commission.

In witness whereof I have hereunto set my hand and affixed the Seal of said Commission this 7th day of November, A. D. 1928.

George B. McGinty, Secretary of the Interstate Commerce Commission. (Seal.)

[fol. 257] [File endorsement omitted]

[fol. 258] BEFORE INTERSTATE COMMERCE COMMISSION

I. C. C. Docket No. —

GEORGIA PUBLIC SERVICE COMMISSION

vs.

ATLANTIC COAST LINE RAILROAD COMPANY

ORIGINAL COMPLAINT—Filed May 3, 1926

The above named complainant presents this its complaint against the carrier herein named and thereupon respectfully shows as follows, to-wit:

1. The Georgia Public Service Commission is the regulatory Commission established by the State Legislature of Georgia, charged with the duty of investigating and prescribing just and reasonable intrastate rates in Georgia; and is further charged by law with the duty of investigating interstate rates into and out of Georgia; and when such interstate rates are found to be excessive, unreasonable or discriminatory, it is required to appeal to the Interstate Commerce Commission for relief.

2. The defendant carrier, the Atlantic Coast Line Railroad Company is a common carrier engaged in the transportation of property wholly by railroad between points in the state of Georgia; between points in the State of Florida and between points in the State of Georgia and points in the state of Florida, and as such a common carrier is subject to the provisions of the Interstate Commerce Act.

[fol. 259] 3. That the object of this complaint is to secure reasonable rates on logs from all points on the Atlantic Coast Line Railroad, as hereinafter shown within the state of Florida to all destinations on the said Atlantic Coast Line Railroad in the state of Georgia, and to have removed any unjust discrimination or undue prejudice found to exist as provided in the Interstate Commerce Act.

4. That in the purchase and transportation of logs from Florida points to mills and other consumers located within the state of Georgia, such mills and consumers of logs come in active competition with mills and purchasers of logs located within the state of Florida, drawing logs from Florida points.

5. That said defendant, Atlantic Coast Line Railroad, publishes in Supplement No. 29 to its Southeastern Tariff No. 5-B, I. C. C. B-2255, effective August 24th, 1925, the following special rates on logs:

Logs, carload, except cedar logs, per car 50,000 pounds, excess in proportion. Cars to be loaded and unloaded by owner and not to be unloaded on the railroad right of way. (Not subject to note 7 of Tariff.) Classification note O, page 2-B of tariff.

From A. C. L. R. R. Stations to A. C. L. R. R. Stations

Distance		
40 miles and under		$8.55 per car
60 miles and over	40 miles	10.50 per car
90 miles and over	60 miles	11.50 per car
100 miles and over	90 miles	13.00 per car
110 miles and over	100 miles	14.00 per car
130 miles and over	110 miles	16.00 per car
160 miles and over	130 miles	17.00 per car
170 miles and over	160 miles	18.50 per car

[fol. 260] 6. That said defendant, Atlantic Coast Line Railroad Company, has published for its account by Agent J. H. Glenn, in said Agent's tariff I. C. C. A-415 (Southern Lumber Tariff No. 6), supplements thereto and re-issues thereof, the following schedule of interstate rates from Florida points to Waycross, Climax, Thomasville, Bainbridge, Brunswick and other Georgia points:

Logs, per Car 50,000 Lbs.

Miles		Miles	
5	$12.50	75	32.50
10	15.00	80	32.50
15	17.50	85	35.00
20	17.50	90	35.00

25	20.00	95	35.00
30	20.00	100	35.00
35	22.50	110	37.50
40	22.50	120	40.00
45	25.00	130	42.50
50	25.00	140	42.50
55	27.50	150	45.00
60	27.50	160	45.00
65	30.00	170	47.50
70	30.00		

7. As more specifically reflecting the situation with regard to the adjustment complained of, your petitioner alleges that the following rates represent the general present adjustment from which relief is sought in this complaint.

[fol. 261] Rates on Logs, per Car 50,000 Lbs. Min.

	Distance, miles		Rate per car
Mattox, Fla. to Jacksonville, Fla	24	(a)	$8.55
Monticello, Fla. to Thomasville, Ga	24	(b)	20.00
Fanlew, Fla. to Monticello, Fla	43	(a)	10.50
Fanlew, Fla. to Thomasville, Ga	44	(b)	25.00
Jasper, Fla. to Lake City, Fla	69	(a)	11.50
Jasper, Fla. to Valdosta, Ga	59	(b)	27.50
Jasper, Fla. to Waycross, Ga	67	(b)	30.00
Inverness, Fla. to Kissimmee, Fla	104	(a)	14.00
DeLeon Springs, Fla. to Jacksonville, Fla	105	(a)	14.00
River Jct., Fla. to Valdosta, Ga	101	(b)	37.50
Jasper, Fla., to Thomasville, Fla	103	(b)	37.50
Green Cove Springs, Fla. to Waycross, Ga	109	(b)	37.50
Jasper, Fla. to Ocala, Fla	127	(a)	16.00
Ocala, Fla. to Jacksonville, Fla	127	(a)	16.00
Live Oak, Fla. to Jacksonville, Fla	127	(a)	16.00
High Springs, Fla. to Valdosta, Ga	122	(b)	42.50
Lake Butler, Fla. to Sanford, Fla	153	(a)	17.00
Lake Butler, Fla. to Lakeland, Fla	159	(a)	17.00
Perry, Fla. to Jacksonville, Fla	162	(a)	18.50
Lake Butler, Fla. to Brunswick, Ga	150	(b)	45.00
Lake Butler, Fla. to Valdosta, Ga	150	(b)	45.00
Lake Butler, Fla. to Quitman, Ga	167	(b)	47.50

(a) Intrastate shipments.
(b) Interstate shipments.

[fol. 262] The same differences and to the same extent, exist with reference to the ability of the Georgia log shipper to attempt to sell and ship his logs to a Florida mill.

There is attached to this complaint, as Exhibit "A," a full comparison of the mileage scales from which the above rates are made, for all distances from 5 miles to 170 miles.

8. That the interstate rates applicable on logs specified in paragraph 6 of this complaint and charged by the defendant railroad company on interstate traffic moving from Florida points to destinations in Georgia are greatly in excess of the Florida intrastate rates published and charged by defendant company on the same commodity from Florida producing points to Florida destinations, for like distances and moving under substantially similar transportation conditions.

9. That the interstate rates on logs from shipping points in Florida to destinations in Georgia are unjust and unreasonable; and, that the charging and receiving of greater compensation for the transportation of logs moving in interstate commerce subject to the provisions of the interstate commerce Act, than is charged and received for the transportation of like property moving in intrastate commerce, under substantially similar transportation conditions, unjustly and unlawfully discriminates against the Georgia Log shippers; that such adjustment is unduly prejudicial and disadvantageous to Georgia interstate shippers, and gives undue preference and advantage to intrastate Florida log shippers.

10. That by reason of the facts stated in the foregoing paragraphs, Georgia shippers have been subjected to the payment of rates for interstate transportation which were when exacted and still are unjust and unreasonable in violation of Section 1 of the Interstate Commerce Act; unjustly discriminatory in violation of Section 2 of said Act and unduly prejudic-al to the interstate shipper and preferential in favor of the intrastate shipper in violation of Section 3 of said Interstate Commerce Act.

[fol. 263] 11. That the intrastate Florida rates charged and received by defendant carrier for the transportation of logs from Florida producing points to destinations in Florida give undue and unreasonable preference and advantage to intrastate shippers in Florida; and are unduly prejudicial and disadvantageous to the interstate shipper in Georgia, and causes undue and unreasonable and unjust discrimination against interstate commerce in the violation of Section 13 of the Interstate Commerce Act.

12. That the rates herein complained of have already been increased since January 1st, 1910.

Wherefore, the complainants pray:

(a) That the defendant carrier may be required to answer the charges herein, and that after due hearing and investigation an order be made requiring said defendant, the Atlantic Coast Line Railroad Company, to cease and desist from the aforesaid violation of the Interstate Commerce Act.

(b) That the Commission determine and prescribe just, reasonable, non-discriminatory and non-prejudicial interstate rates to be observed and charged in the future by the defendant carrier for the transportation of carload shipments of logs, from all points located in the State of Florida to all destinations located in the State of Georgia; that the measure of said rates be no higher than the rates concurrently in effect for the same kind of property, from producing points located within the State of Florida, moving in intrastate commerce, to destinations within the State of Florida.

(c) That such further order or orders be made as the Commission may consider proper in the premises.

Dated at Atlanta, Georgia, April 23rd, 1926.

Georgia Public Service Commission, by James A. Perry, Chairman, E. M. Price, Rate Expert.

Atlanta, Ga., April 23rd, 1926.

[fol. 264] EXHIBIT A TO COMPLAINT

Statement showing comparison of Florida Intrastate rates on logs per car 50,000 lbs. and Interstate Rates between Florida and Georgia points. Both scales published for account Atlantic Coast Line Railroad

Distance, miles	Florida intrastate scale	Florida-Georgia interstate scale	Interstate scale higher
5	$8.55	$12.50	46%
10	8.55	15.00	76%
15	8.55	17.50	104%

Distance, miles	Florida intrastate scale	Florida-Georgia interstate scale	Interstate scale higher
20	8.55	17.50	104%
25	8.55	20.00	133%
30	8.55	20.00	133%
35	8.55	22.50	163%
40	8.55	22.50	163%
45	10.50	25.00	138%
50	10.50	25.00	138%
55	10.50	27.50	161%
60	11.50	27.50	161%
65	11.50	30.00	160%
70	11.50	30.00	160%
75	11.50	32.50	200%
80	11.50	32.50	200%
85	11.50	35.00	233%
90	11.50	35.00	233%
95	13.00	35.00	169%
100	13.00	35.00	169%
110	14.00	37.50	168%
120	16.00	40.00	150%
130	16.00	42.50	165%
140	17.00	42.50	150%
150	17.00	45.00	164%
160	17.00	45.00	164%
170	18.50	47.50	156%

Tariff Authorities:

Florida Intrastate rates, Supplement 29 to ACL Southeastern Tariff No. 5-B; ICC B-2255, effective August 24, 1925.

Florida-Georgia Interstate rates, Agent Glenn's ICC A-415 (Southern Lumber Tariff No. 6), Supplements thereto and reissues thereof.

[fol. 265] [File endorsement omitted]

BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ANSWER

The Answer of the Atlantic Coast Line Railroad Company to the Petition Filed in the Above-styled Proceeding

For answer to said petition this respondent says as follows:

1. Respondent has no reason to doubt the correctness of the allegations contained in paragraph 1.

2. The allegations of paragraph 2 are admitted.

3. Respondent is advised that it is unnecessary for it to answer paragraph 3.

4. The allegations of paragraph 4 are admitted.

5. Respondent asks that reference be made to its tariffs, lawfully published and filed, for verification of the allegations of paragraph 5.

6. Respondent asks that reference be made to its tariffs, lawfully published and filed, for verification of the allegations of paragraph 6.

7. Respondent asks that reference be made to its tariffs, lawfully published and filed, for verification of the allegations of paragraph 7.

8. For answer to paragraph 8, respondent admits that its rates applicable on logs, as specified in paragraph 6 of said petition and charged by it on interstate traffic moving from Florida points to destinations in Georgia, are in excess of the intrastate rates in Florida where hauls are for distances of 170 miles and under.

9. For answer to paragraphs 9, 10, 11 and 12 of said petition, respondent denies that its interstate rates on logs from shipping points in Florida to destinations in Georgia are either unjust or unreasonable. Further answering this re- [fol. 266] spondent avers that to whatever extent there may

be discrimination against interstate shippers or interstate commerce under the rates complained of, such discrimination is not attributable to anything voluntarily done, or omitted to be done by this respondent, or for which this respondent is in any manner responsible, but arises out of conditions over which this respondent has no control. Accordingly, respondent denies that there is, or has been any violation whatever on its part of the Interstate Commerce Act, as amended.

And, having fully answered, respondent prays that it be hence dismissed, etc.

Frank W. Gwathmey, Special Counsel.

[fol. 267] Before Interstate Commerce Commission

[Title omitted]

Order Amending Petition of Intervenor—Sept. 14, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Jacksonville Traffic Bureau, intervenor herein;

It is ordered, That the intervening petition of Jacksonville Traffic Bureau in this proceeding be, and the same is hereby, amended in accordance with the document hereto attached, marked "Amended Petition for Leave to Intervene";

It is further ordered, That a copy of the amended petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 268] Before Interstate Commerce Commission

[Title omitted]

Amended Petition for Leave to Intervene—Sep. 3, '26

Comes now your petitioner, Jacksonville Traffic Bureau, and respectfully represents that it has an interest in the

matters in controversy in the above entitled proceeding, and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

1. That the Jacksonville Traffic Bureau is a corporation, operating without profit, organized and existing under the laws of the State of Florida, with its principal office located at Jacksonville; that it is maintained jointly by the municipality of Jacksonville and the Jacksonville Chamber of Commerce, and has for its object, among other things, the securing and maintaining for the City of Jacksonville of freight rates which are just, reasonable, and non-prejudicial.

2. That your petitioner has among its members a number of plants located at Jacksonville, Florida, and vicinity, which manufacture lumber, crate material and other forest products, and receive their logs over the lines of defendant carrier.

3. That the intrastate rates charged by the defendant carrier for the transportation of logs from stations on its lines in Florida to Jacksonville and vicinity are not unreasonable or otherwise unlawful, and that any increase in these charges would increase the cost of raw materials to an extent which would result in serious injury and damage to said manufacturing plants.

4. That the service rendered by the defendant carrier in the transportation of logs from stations on its lines in Florida to Jacksonville is unlike and dissimilar to the service rendered by said defendant in the transportation of logs from stations on its lines in Florida to points in Georgia, and that a difference in the charges for services rendered under substantially dissimilar circumstances and conditions does not create unjust discrimination.

[fol. 269] 5. That no undue or unreasonable preference or advantage is being given the manufacturing plants at Jacksonville and vicinity, nor are the receivers and shippers of logs in Georgia being subjected to undue or unreasonable prejudice by reason of the fact that the defendant carrier charges different rates for transportation when the service rendered is not substantially similar.

6. That if the Commission should find that unjust discrimination or undue prejudice exists in violation of the provisions of the Interstate Commerce Act, said unjust discrimination or undue prejudice should be removed by reducing the interstate rates charged by the defendant carrier for the transportation of logs from stations on its lines in Florida to points in Georgia.

7. That the position and interest of your petitioner in this proceeding is not to broaden the issues but to maintain the present rates on logs from stations on the lines of the defendant carrier in Florida to Jacksonville and vicinity, and that we do not oppose a proper effort on the part of the complainant to secure just and reasonable rates for Georgia shippers and receivers of logs.

Wherefore said petitioner prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

Dated at Jacksonville, Florida, September 1, 1926.

Respectfully submitted.

Jacksonville Traffic Bureau, by W. E. Gardner, W. E. Gardner, Manager.

Address: P. O. Box 318, Jacksonville, Fla.

[fol. 270] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER AMENDING PETITION OF INTERVENOR—Sept. 14, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Southern Pine Association, intervenor herein;

It is ordered, That the intervening petition of Southern Pine Association in this proceeding be, and the same is hereby, amended in accordance with the document hereto attached;

It is further ordered, That a copy of the petition for leave to intervene be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 271] (Corrected)

BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE—Sep. 3, '26

Comes now your petitioner, Southern Pine Association, and respectfully represents that it has an interest in the matters in controversy in the above entitled proceeding and desires to intervene in and become a party to said proceeding, and for the grounds for the proposed intervention says:

1. That said petitioner, Southern Pine Association, maintains its headquarters at New Orleans, La.

2. That members of said Southern Pine Association operating in the states of Alabama, Florida and Georgia, do ship and cause to be shipped, logs and products of logs, in both interstate and intrastate commerce over line of carrier defendant in this proceeding. That petitioner's activities embrace the protection of the interests of its subscribers in all matters pertaining to Traffic and Transportation.

3. And that, further, for the purpose of presenting to both the Interstate Commerce Commission and the Georgia Public Service Commission (complainants in this proceeding) this Association's attitude with respect to and interest in the several allegations set forth in the complaint, our views and opinions with regard to each individual paragraph as embodied therein:

With paragraphs 1, 2, 4, 5, 6, 7 and 8 we are in accord.

With paragraphs 3, 9, 11 and 12, we are in accord except as to alleged discrimination and undue preference.

With paragraph 10, we are in accord except as to alleged violations of Sections 2 and 3 of the Act.

Wherefore said Southern Pine Association prays leave to intervene and be treated as a party thereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument if oral argument be granted.

Respectfully submitted.

Southern Pine Association, by (Signed) A. G. T. Moore, Traffic Manager.

Dated at New Orleans, La., September 1, 1926.

(This petition issued in lieu of petition previously filed with the Interstate Commerce Commission dated August 11, 1926.)

[fol. 272] Before Interstate Commerce Commission

[Title omitted]

Order Amending Petition of Intervenor—Sept. 14, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Southern Cypress Manufacturers' Association, intervenor herein,

It is ordered, That the intervening petition of Southern Cypress Manufacturers' Association in this proceeding be, and the same is hereby, amended in accordance with the document hereto attached, marked "Amended Petition for Leave to Intervene";

It is further ordered, That a copy of the amended petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 273] Before Interstate Commerce Commission

[Title omitted]

Amended Petition for Leave to Intervene—Sep. 13, '26

Comes now the petitioner, the Southern Cypress Manufacturers Association, and respectfully represents that it

has an interest in the matters in controversy in the above-entitles proceeding and desire- to intervene in and become a party to said proceeding, and for grounds of the proposed intervention say-:

1. That your petitioner is an Association of Manufacturers and Shippers of Logs in carloads with office in Jacksonville, Florida.

2. That the complainant in this case brings into comparison the intrastate rates in Florida, where we have Logging interests, and represent these interest- in all traffic matters. We are directly interested in the Log rates established between points within the state of Florida and have represented these interests in many instances in rate adjustments which are now being made subject of this complaint.

[fol. 274] 3. That Petitioner is concerned in the intrastate rates between Georgia points and between Florida points and is opposed to the establishment of the interstate rates as prayed for by the Petitioner from points in Florida to points in Georgia on a lower basis and would prevail on relatively similar intrastate traffic between Georgia points.

Wherefore said Southern Cypress Manufacturers Association prays *to* leave to intervene and be treated as a party with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument if oral argument is granted.

Respectfully submitted.

Southern Cypress Manufacturers' Association, by G. W. Owen, Traffic Manager.

Dated at Jacksonville, Fla., September 10, 1926.

[fol. 275] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER PERMITTING INTERVENTION—July 3, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Elberta Crate Company;

It is ordered, That the said Elberta Crate Company be, and it is hereby, permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument, is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendants; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 276] Letter-head of Elberta Crate Company

BEFORE THE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION OF ELBERTA CRATE COMPANY, BAINBRIDGE, GEORGIA, FOR LEAVE TO INTERVENE

Comes now your petitioner, Elberta Crate Company, Bainbridge, Ga. and respectfully represents that it has an interest in the matter in controversy in the above entitled proceedings, and moves that said company be allowed to intervene in and become a party to said proceedings, and for cause of intervention says:

1

That the Elberta Crate Company is a corporation organized and existing under the laws of the State of Georgia, with its principal office and factory located in the city of Bainbridge, Ga.

That said company is engaged in the manufacture of wooden crates and crate materials used in the shipments of fruits and vegetables, and in the sale and distribution thereof throughout the states of Georgia, Florida, and elsewhere.

2

That in the purchase and transportation of logs used in the manufacture of crates and crate material, it actively competes with manufacturers and shippers of like commodities located at various points on the Atlantic Coast Line Railroad in Florida, which said competitors are, under the present rates of the Atlantic Coast Line Railroad, enabled [fol. 277] to draw logs into their Florida manufacturing points at rates materially less, distances and transportation facilities considered, than the Elberta Crate Company is permitted to do.

Your petitioner is accordingly interested to a very vital extent in whatever the proceeding may develop as affecting the existing rate structure applicable to shipment of logs moving via the Atlantic Co-st Line Railroad between points in Florida as contrasted with similar movements via the Atlantic Coast Line Railroad from points in Florida to points in Georgia.

3

Wherefore said Elberta Crate Company prays leave to intervene and be treated as a party thereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief, and at the oral argument if oral argument is granted.

Dated at Bainbridge, Ga., July 2nd, 1926.

Elberta Crate Company, by J. M. Simmons, President.

Address: J. M. Simmons, President Elberta Crate Company, Bainbridge, Ga.

[fol. 278] Before Interstate Commerce Commission

[Title omitted]

Order Permitting Intervention—July 26, 1926

Upon consideration of the record in the above-entitled peoceeding and application filed on behalf of Jacksonville Traffic Bureau,

It is ordered, That the said Jacksonville Traffic Bureau be, and it is hereby permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 279] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, Jacksonville Traffic Bureau, and respectfully represents that it has an interest in the matters in controversy in the above entitled proceeding, and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

1. That the Jacksonville Traffic Bureau is a corporation, operating without profit, organized and existing under the laws of the State of Florida, with its principal office located at Jacksonville; that it is maintained jointly by the municipality of Jacksonville and the Jacksonville Chamber of Commerce, and has for its object, among other things, the securing and maintaining for the City of Jacksonville of freight rates which are just, reasonable, and non-prejudicial.

2. That your petitioner has among its members a number of plants located at Jacksonville, Florida, and vicinity, which manufacture lumber, crate material and other forest

products, and receive their logs over the lines of defendant carrier.

3. That any increase in the cost of raw material to the said manufacturing plants caused by an increase in the cost of transportating their logs, will result in serious injury and damage thereby.

4. Wherefore said petitioner prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross-[fol. 279½] examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

Dated at Jacksonville, Florida, July 24, 1926.

Respectfully submitted.

Jacksonville Traffic Bureau, by W. E. Gardner. W. E. Gardner, Manager.

Address: P. O. Box 318, Jacksonville, Fla.

[fol. 280] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER PERMITTING INTERVENTION

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Georgia-Florida Saw Mill Association,

It is ordered, That the said Georgia-Florida Saw Mill Association be, and it is hereby, permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and

that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 281] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Comes now your Petitioner, Georgia-Florida Saw Mill Association, and respectfully represents that it has an interest in the matter in controversy in the above entitled proceedings, and desires to intervene in and become a party thereto, and for grounds for the proposed intervention, says:

1. That petitioner is a corporation organized under the laws of the State of Georgia, with its principal office in Jacksonville, Florida.

2. That members of Georgia-Florida Saw Mill Association operating in Georgia, Florida and Alabama, ship and cause to be shipped, logs and the products of logs, in both Interstate and Intrastate Commerce, over line of Carrier defendant in this proceeding.

[fol. 282] 3. That Petitioner's activities embrace the protection of the interests of its membership in matters pertaining to traffic and transportation.

Wherefore said Georgia-Florida Saw Mill Association prays leave to intervene and to be treated as a party hereto, with the right to have notice of and to appear at the taking of testimony, to produce and cross-examine witnesses, and to be heard in person or by Counsel, on brief and at oral argument, if oral argument is granted.

Respectfully submitted.

Georgia-Florida Saw Mill Association, by J. S. Farish, Traffic Manager.

Dated at Graham Building, Jacksonville, Florida, August 3, 1926.

Docket No. 18364

BEFORE THE INTERSTATE COMMERCE COMMISSION

Motion filed at Hearing 10-21-26. R. M. Brown Examiner

Title Omitted

INTERVENER'S MOTION TO DISMISS

Come now the intervenors, Wilson Cypress Company, Brooks-Scanlon Corporation, Putnam Lumber Company, Cummer Cypress Company, Jacksonville Traffic Bureau, Georgia-Florida Saw Mill Association, ~~Georgia~~ Roofers Manufacturers Association, Southern Cypress Manufacturers Association, Southern Pine Association, ~~and~~ Florida Railroad Commission, and respectfully move the Commission dismiss this proceeding upon the following grounds severally:

1. Neither the Complainant nor the supporting Intervenors have submittee evidence sufficient to constitute a cause of action within the power of this Commission to remedy.

2. The allegations of the complaint have not been sustained by the Complainant nor by the supporting Intervenors.

Submission of this motion is without predudice to the right of these movants to submit material, relevant and competent evidence as to any and all issues in this proceeding if and after the Interstate Commerce Commission shall have considered and disposed of this motion, and such right is hereby reserved by these movants.

And each and every the undersigned hereby certify that this motion is not made for the purpose of delay, and that, in their opinion, the same is well founded in Law.

Wilson Cypress Company
By W. P. Gibson and Chas. E. Cotterill
attorneys

Brooks-Scanlon Corporation
By Edward P. Lamborn & Geo. L. Sutherland
attorneys

Putnam Lumber Company
By W. W. Adams & Chas. E. Cotterill
attorneys

Jacksonville Traffic Bureau
By J. O. Cassidy
attorney

Georgia-Florida Sawmill Association
By W. Smith
attorney

Roofers Manufacturers Club of Georgia
By W. Smith
attorney

Southern Cypress Manufacturers Association
By R. E. Mitchell & J. M.

Southern Pine Association
By A. J. Moore
attorney

Cummer Cypress Co
By E. W. Mitchell
attorney

Chas E. Cotterill
Savannah Traffic Bureau
By E. B. Gaines
By J. M. Crum

BEFORE THE INTERSTATE COMMERCE COMMISSION

Motion filed R. M. B. Examiner

Title Omitted

INTERVENER'S MOTION TO DISMISS

Come now the intervenors, Wilson Cypress Company, Brooks-Scanlon Corporation, Putnam Lumber Company, Cummer Cypress Company, Jacksonville Traffic Bureau, Georgia-Florida Saw Mill Association, ~~Georgia~~ Roofers Manufacturers Association, Southern Cypress Manufacturers Association, Southern Pine Association, and Florida Railroad Commission, and respectfully move the Commission dismiss this proceeding upon the following grounds severally:

1. Neither the Complainant nor the supporting Intervenors have submittee evidence sufficient to constitute a cause of action within the power of this Commission to remedy.

2. The allegations of the complaint have not been sustained by the Complainant nor by the supporting Intervenors.

Submission of this motion is without predudice to the right of these movants to submit material, relevant and competent evidence as to any and all issues in this proceeding if and after the Interstate Commerce Commission shall have considered and disposed of this motion, and such right is hereby reserved by these movants.

And each and every the undersigned hereby certify that this motion is not made for the purpose of delay, and that, in their opinion, the same is well founded in Law.

Wilson Cypress Company
By W. W. Osborn and Chas. E. Corbett
attorneys

Brooks-Scanlon Corporation
By Edward P. Lamborn & Geo. L. Patterson
attorneys

Putnam Lumber Company
By W. W. Osborn & Chas. E. Corbett
attorneys

Jacksonville Traffic Bureau
By F. O. Conroy
attorney

Georgia-Florida Sawmill Association
By W. Davis
attorney

Roofers Manufacturers Clubs of Georgia
By W. Davis
attorney

Southern Cypress Manufacturers Association
By R. E. Mikell & J. M.
attorneys

Southern Pine Association
By A. J. Moore
attorney

Florida Railroad Commission
By Edward Bedford Commissioner
By Claude Bond Butt
attorneys

Fred H. Davis
attorney

Cummer Cypress Co.
By E. W. Mitchell
attorney
Chas. E. Corbett
Savannah Traffic Bureau
By E. B. Garner
By [illegible]

[fol. 283] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER AMENDING PETITION OF INTERVENOR—Oct. 16, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Georgia-Florida Saw Mill Association, intervenor herein:

It is ordered, That the intervening petition of Georgia-Florida Saw Mill Association in this proceeding be, and the same is hereby, amended in accordance with the document hereto attached, marked "Second Amended Petition for Leave to Intervene."

It is further ordered, That a copy of the amended petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

(Here follows intervener's motion to dismiss, side folio 284)

[fol. 285] BEFORE THE INTERSTATE COMMERCE COMMISSION

Received at Hearing 10/20/26. F. C. H.

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Comes now your Petitioner, Roofer Manufacturers Club of Georgia, and respectfully represents that it has an interest in the matter in controversy in the above entitled proceedings, and desires to intervene and become a party thereto, and for grounds for the proposed intervention, says:

1. That petitioner is a voluntary association of lumber manufacturers of South Carolina, Georgia and Alabama, thirty-nine of such manufacturers operating in Georgia, with office of its Secretary at Madison, Ga.

2. That members of Roofer Manufacturers Club of Georgia, ship and cause to be shipped, logs and the products

of logs, in both interstate and intrastate commerce, over line of carrier, parties to these proceedings.

3. That the establishment of interstate rates prayed for in paragraph 12 (b) of complaint will result in materially lower rates for distances 15 to 170 miles on interstate traffic from points in Florida to points in Georgia than at present obtain on Georgia intrastate traffic to which your petitioner is opposed.

4. That petitioner is concerned in the measure of interstate rates (rates from points in Florida to points in Georgia) involved in this complaint.

5. That it is not the purpose of this intervention to broaden the issues herein.

Wherefore, said Roofer Manufacturers Club of Georgia prays leave to intervene and to be treated as a party hereto, with the right to have notice of and to appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by Counsel, on brief and at oral argument, if oral argument is granted.

Respectfully submitted.

Roofer Manufacturers Club of Georgia, C. R. ——,
its Secretary, by J. S. Farish, its Attorney.

Dated at Jacksonville, Fla., October 18, 1926.

[fol. 286] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION OF PUTNAM LUMBER COMPANY FOR LEAVE TO INTERVENE

Comes now your petitioner, Putnam Lumber Company, and respectfully represents that it has an interest in the matter and things involved in the above entitled proceeding, and desires to intervene in, and become a party to, said proceeding, and for grounds of its proposed intervention shows:

1. That your petitioner, Putnam Lumber Company, is a corporation duly organized and existing under the laws of

the State of Florida, with its principal office in Duval County, Florida.

That your petitioner was chartered by the State of Florida on to-wit, December 31, 1924, and on said date acquired all the assets and property of Putnam Lumber Co., a corporation organized and existing under the laws of the State of Wisconsin, the stockholders of your petitioner being then and there the identical persons owning and holding the stock in said Wisconsin corporation, each of said stockholders owning a like number of shares of the stock of your petitioner and of said Wisconsin corporation, there being no change of beneficial interest accomplished by the transfer of said assets and property.

2. That your petitioner is the owner of to-wit, 650,000,000 feet of pine timber and to-wit, 350,000,000 feet of cypress [fol. 286½] timber, standing and being in the Counties of Dixie, Taylor, La Fayette, Alachua, Gilchrist, Union, Volusia and Flagler, in the State of Florida, on the value of more than eight million dollars; that to-wit, more than three-fourths in amount and in value of said timber was acquired by said Wisconsin corporation, the predecessor of your petitioner, long prior to the year 1918, to-wit, in the year 1903, and the remainder of said timber was acquired by the said predecessor of your petitioner and your petitioner since the year 1918.

3. That all of said timber at all times herein mentioned was and still is accessible from and tributary to the existing line of railroad of the Atlantic Coast Line Railroad Company and to no other line of railroad.

4. That your petitioner now is engaged in the operation of two sawmill plants at Jacksonville, Florida, the one leased from the Cummer Lumber Company, situate at a point called Milldale in the suburbs of said city of Jacksonville and known as the Cummer Lumber Company mill, and the other owned by your petitioner and situate on the Atlantic Coast Line Railroad on McGirt's Creek, in said city, and known as the Ortega plant of your petitioner.

5. That your petitioner is now engaged in the logging of said timber and the shipment of the logs cut therefrom via the Atlantic Coast Line Railroad, from the town of

Cross City and near by, in said Dixie County, Florida, to the sawmill plants mentioned above of your petitioner, and the manufacture of such logs into lumber, shingles, laths and other lumber and timber products, and the distribution of such products by water and by rail throughout the Eastern portion of the United States, and by water to many foreign countries.

6. That said sawmills and plants have been operated continuously by your petitioner and its said predecessor since the year 1918, and the annual output of said mills is to-wit more than one hundred million feet.

7. That your petitioner has no sawmills or plants other than its sawmills and plants at Jacksonville above mentioned, and no timber other than the timber above mentioned.

[fol. 287] 8. That the logs cut from such timber are now moving and for a long time prior to the filing of the petition herein have moved from the said town of Cross City and near by, to the said plants of your petitioner at Jacksonville, under a contract made by your petitioner with the Atlantic Coast Line Railroad Company to transfer such logs over its road when loaded by your petitioner in trainload lots of not less than forty cars every day upon the basis of $16.00 per carload of 50,000 lbs. minimum weight and a proportionate increase for any additional load over and above such minimum weight.

That said rates are determined on a mileage basis and in accordance with the established tariff duly published by the Atlantic Coast Line Railroad Company; that said rates have prevailed for many years without alteration save such horizontal alterations as have been made by regulatory bodies in commodity rates generally.

9. That your petitioner and its said predecessor since 1918 have expended more than $600,000.00 in the construction of the said Ortego plant and in the improvement and repair of said Cummer Lumber Company plant, and in so doing relied upon said rates so published by said Atlantic Coast Line Railroad as aforesaid.

10. That if such Intra-State rates are materially increased the value of your petitioner's said investment in

plants at Jacksonville will be practically destroyed and the business built up by your petitioner and its predecessor during the eight years last past will be disrupted, to the great injury of your petitioner.

11. That the present Intra-State rates for the transportation of logs as published by said Atlantic Coast Line Railroad between stations and points in Florida are compensatory.

12. That neither now nor for many years last past has there been any substantial movement of logs Interstate from Georgia to Florida or from Florida to Georgia; that there are not now nor has there been for many years any [fol. 288] substantial number of logs available for shipment in Interstate commerce from Georgia to Florida, or for shipment in Interstate commerce from Florida to Georgia.

13. That said Intra-State rate does not unjustly discriminate against Interstate commerce.

14. That it is not for the purpose of this intervention to broaden the issues in this proceeding.

Wherefore your petitioner respectfully prays leave to intervene and to appear as a party hereto, with the right to have notice of and to appear at the taking of testimony, produce and cross-examine witnesses, and to be heard in person or by counsel in brief and at the oral argument, if oral argument is granted.

Jacksonville, Florida, October 15, 1926.

Putnam Lumber Company, by M. L. Fleishel, President. Cooper, Knight, Adair, Cooper & Osborne, Attorneys, by H. P. Adair.

Attest: C. L. Effinger, Secretary. (Corporate Seal.)

[fol. 289] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, Cummer Cypress Company, and respectfully represents that it has an interest in the

matters in controversy in the above entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention say:

I. That the petitioner is a corporation, organized under the laws of the State of Florida, with its principal place of business at Jacksonville, Florida, and is engaged in the business of manufacturing lumber.

II. The petitioner operates a saw and crate mill at Lacoochee, Florida, and ships logs from its timberlands over the defendant carrier's railroad from Otter Creek, Florida, to Lacoochee, Florida, a distance of seventy-seven miles, paying the rates therefor as now established by published schedules, and, that the petitioner is interested in the above entitled proceedings to the extent that said proceedings may effect the present scale of freight rates on logs transported by the defendant carrier between said points of Otter Creek and Lacoochee, Florida.

III. That if permission to intervene herein is granted it is not the purpose of the petitioner to introduce evidence which will unduly broaden the issues raised in the complaint.

Wherefore said Cummer Cypress Company prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross examine witnesses, and be heard in per-
[fol. 290] son or by counsel upon brief and at the oral argument, if oral argument is granted.

Dated at Jacksonville, Florida, October 11th, 1926.

Cummer Cypress Company, by A. G. Cummer, President, 451 St. James Building, Jacksonville, Florida. E. W. Mitchell, 905 Florida National Bank Building, Jacksonville, Florida; Chas. E. Cotterill, 505 Grant Bldg., Atlanta, Ga., Attorneys for Petitioner.

[fol. 291] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION OF WILSON CYPRESS COMPANY FOR LEAVE TO INTERVENE

Comes now your petitioner, the Wilson Cypress Company, and respectfully represents that it has an interest in the matter and things involved in the above entitled proceeding, and desires to intervene in, and become a party to, said proceeding, and for grounds of its proposed intervention shows:

1. That your petitioner, the Wilson Cypress Company, is a corporation duly organized and existing under the laws of the State of Florida, with its principal office and place of business in the City of Palatka, County of Putman, Florida.

That continuously since the year 1894 your petitioner has maintained and operated its sawmill and plant in said City of Palatka on the St. Johns River for the manufacture of cypress lumber, shingles and laths; that in the year 1922 your petitioner enlarged its sawmill and plant at Palatka at a cost and expense of more than Five Hundred Thousand [fol. 292] ($500,000.00) Dollars in order to increase the capacity of said mill and plant and provide facilities for manufacturing the cypress timber owned by your petitioner and standing on lands in Dixie, Lafayette, Taylor Counties, State of Florida, and your petitioner now has invested in its Palatka mill, plant and logging facilities upwards of one million ($1,000,000) dollars.

That your petitioner has no mill or plant in Dixie, Lafayette, Taylor Counties or elsewhere, other than its mill and plant at Palatka, that a primary and essential reason or consideration for the decision by your petitioner to enlarge and increase its mill, plant and logging facilities at Palatka in the year 1922 was the then prevailing railroad freight rate for the transportation to Palatka of its timber in Dixie, Lafayette and Taylor Counties, which rates are the same as those hereinafter mentioned, and that your petitioner would not have so increased or enlarged said mill and plant if a material increase in said rates had then been anticipated or contemplated.

2. That in 1922 at the time of the enlargement of its sawmill and plant, your petitioner was the owner of more than three hundred million (300,000,000) feet of standing cypress timber upon said lands in Dixie, Lafayette, Taylor Counties, and it is now the owner of approximately two hundred fifty to three hundred million (250,000,000 to 300,000,000) feet of such cypress timber.

That your petitioner commenced the cutting and hauling of said cypress timber from said lands in Dixie, Lafayette and Taylor Counties in May 1923; that such timber was then and now is accessible from and tributary to the existing line of railroad of the Atlantic Coast Line Railroad Company, and at the present time is not accessible or tributary to the line of any other railroad; that from May 1923 to July 1, 1926, your petitioner hauled and removed the [fol. 293] timber cut by it from said lands by delivering the same on sidings at Oldtown in Dixie County, and since July 1st, 1926 has hauled and removed said timber from said lands by delivering the same on sidings at Hines in Dixie County; that such timber has been moved from Oldtown up to July 1st, 1926, and since July 1st, 1926 from Hines, to its mill and plant at Palatka under contract made by your petitioner with said Atlantic Coast Line Railroad Company to transport over its line such timber when cut into logs and moved in train load lots of not less than thirty (30) cars every other day to its mill at Palatka for Thirteen (13.00) Dollars per car of fifty thousand (50,000#) pounds from the sidings at Oldtown, and Sixteen ($16.00) Dollars per car of 50,000 pounds from the sidings at Hines. That said log rates are determined on a mileage basis and are in accordance with the established tariff fixing rates for transportation of logs between such points of shipment within the State of Florida, and such rates were duly fixed and approved by the Railroad Commission of the State of Florida.

3. That your petitioner relied upon said tariff rates on logs so fixed and approved by the Railroad Commission of Florida in the enlargement and extension of its mill and plant in the year 1922.

That if said intrastate rates are materially increased the value of its mill and plant and logging facilities at Palatka

will be practically destroyed, and its investment and industry made of little value after it has cut and manufactured the only other cypress timber owned by it, other than that timber standing in Dixie, Lafayette and Taylor Counties, and that the only other timber owned or held by your petitioner, other than the other mentioned timber in Dixie, Lafayette and Taylor Counties is approximately one hundred fifty million (150,000,000) feet of Cypress timber owned by it and standing upon lands tributary to the St. Johns River.

4. That the present intrastate rates for the transportation of logs between stations and points in Florida produces a profit to the railroad company and are not discriminatory or otherwise unlawful.
[fol. 294] That there are practically no logs or timber in the State of Georgia now available for shipment from that State into the State of Florida, and only a very small amount of timber, if any, now standing in the State of Florida is owned by persons having mills or lumber plants in the State of Georgia; that the greater part of the standing timber in the State of Florida is owned by persons and corporations operating mills and plants exclusively in the State of Florida.

5. That under the present intrastate tariff rates for logs, trade and industries have been built up by your petitioner and others in the State of Florida, and such trade and industries will be disrupted and largely destroyed by any material increase in the present log rates, and that the disruption of such trade and industry will work great loss upon those persons dependent upon the continuance of such trade and industries, including the employees engaged in such industries and their families.

6. That it is not the purpose of this intervention to broaden the issues in this proceeding.

Wherefore your petitioner respectfully prays leave to intervene and to appear as a party hereto, with the right to have notice of, and to appear at the taking of testimony, produce and cross examine witnesses, and be heard in per-

son or by counsel, on brief and at the oral argument, if oral argument is granted.

Wilson Cypress Company, Petitioner, by F. H. Wilson, General Manager. Attest: A. A. Corson, Secretary. (Corporate Seal Wilson Cypress Company, Palatka, Fla.) Cooper, Knight, Adair, Cooper & Osborne, Counsel for Petitioner.

Dated at Palatka, Florida, October 14th, 1926.

[fol.295] Before Interstate Commerce Commission

[Title omitted]

Second Amended Petition for Leave to Intervene

Comes now your Petitioner, Georgia-Florida Saw Mill Association, and respectfully represents that it has an interest in the matter in controversy in the above entitled proceedings, and desires to intervene and become a party thereto, and for grounds for the proposed intervention, says:

1. That Petitioner is a corporation organized under the laws of the State of Georgia, with its principal office at Jacksonville, Florida.

2. That members of Georgia-Florida Saw Mill Association operating in Georgia, Florida and Alabama, ship and cause to be shipped, logs and the products of logs, in both interstate and intrastate commerce, over line of carrier defendant in this proceeding.

3. That the establishment of interstate rates prayed for in paragraph 12 (b) of complaint will result in materially lower rates for distances 15 miles to 170 miles on interstate traffic from points in Forida to points in Georgia than at present obtain on Georgia intrastate traffic to which your petitioner is opposed.

4. That the level of Florida Intrastate rates is involved as evidenced by paragraph 8 of complaint and as further evidenced by averment of intervening carriers, viz: Seaboard Air Line Railway Company, Central of Georgia Rail-

way Company, Southern Railway Company and Georgia, Southern & Florida Railway Company in paragraph 2, page 2, of said carriers petition for leave to intervene.

[fol. 296] 5. That petitioners's activities embracing the protection of the interests of its membership in matters pertaining to traffic and transportation, your petitioner is concerned in the measure of both state and interstate rates involved in this complaint.

6. That it is not the purpose of this intervention to broaden the issues herein.

Wherefore said Georgia-Florida Saw Mill Association prays leave to intervene and to be treated as a party hereto, with the right to have notice of and to appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by Counsel, on brief and at oral argument, if oral argument is granted.

Respectfully submitted.

Georgia-Florida Saw Mill Association, by J. S. Farish, Traffice Manager.

Dated at Graham Bldg., Jacksonville, Florida, October 11, 1926.

[fol. 297] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER PERMITTING INTERVENTION—Aug. 9, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Southern Cypress Manufacturers Association;

It is ordered, That the said Southern Cypress Manufacturers Association be and it is hereby, permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 298] [File endorsement omitted]

BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE—Filed Aug. 9, 1926

Comes now the petitioner, the Southern Cypress Manufacturers Association, and respectfully represents that it has an interest in the matters in controversy in the above-entitles proceeding and desire to intervene in and become a party to said proceeding, and for grounds of the proposed intervention say:

1. That your petitioner in an Association of Manufacturers and Shippers of Logs in carloads with office in Jacksonville, Florida.

2. That the complainant in this case brings into comparison the intrastate rates in Florida, where we have Logging interests, and represent these interests in all traffic matters. We are directly interested in the Log rates established between points, within the state of Florida and have represented these interests in many instances in rate adjustments which are now being made subject of this complaint.

[fol. 299] Wherefore said Southern Cypress Manufacturers Association prays to leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument if oral argument is granted.

Respectfully submitted.

Southern Cypress Manufacturers Association, by G. W. Owen, Traffic Manager.

Dated at Jacksonville, Fla., August 6, 1926.

[fol. 300] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER PERMITTING INTERVENTION—Aug. 14, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Southern Pine Association,

It is ordered, That the said Southern Pine Association be and it is hereby, permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 301] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, Southern Pine Association, and respectfully represents that it has an interest in the matters in controversy in the above entitled proceeding and desires to intervene in and become a party to said proceeding, and for the grounds for the proposed intervention says:

1. That said petitioner, Southern Pine Association, maintains its headquarters at New Orleans, La.

2. That members of said Southern Pine Association operating in Alabama, Florida and Georgia, ship and cause to be

shipped, Logs and the products of Logs, in both Interstate and Intrastate Commerce, over line of Carrier defendant in this proceeding. That Petitioner's activities embrace the protection of the interests of its subscribers in matters pertaining to Traffic and Transportation.

Wherefore said Southern Pine Association prays leave to intervene and be treated as a party thereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument if oral argument be granted.

Respectfully submitted.

Southern Pine Association, by A. G. T. Moore, A. G. T. Moore, Traffic Manager.

Dated at New Orleans, La., August 11, 1926.

[fol. 302] Before Interstate Commerce Commission

[Title omitted]

Order Permitting Intervention—Aug. 17, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Seaboard Air Line Railway Company, Central of Georgia Railway Company, Southern Railway Company and Georgia Southern & Florida Railway Company,

It is ordered, That the said Seaboard Air Line Railway Company, Central of Georgia Railway Company, Southern Railway Company, and Georgia Southern & Florida Railway Company be and they are hereby, permitted to intervene and be treated as parties hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenors to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a

copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 303] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION OF INTERVENTION ON BEHALF OF SEABOARD AIR LINE RAILWAY COMPANY, CENTRAL OF GEORGIA RAILWAY COMPANY, SOUTHERN RAILWAY COMPANY, AND GEORGIA SOUTHERN & FLORIDA RAILWAY COMPANY

Come now the Seaboard Air Line Railway Company, Central of Georgia Railway Company, Southern Railway Company, and Georgia Southern & Florida Railway Company and respectfully represent that they have an interest in the matters and things involved in the above-entitled [fol. 304] proceeding and desire to intervene in and become parties to said proceeding, and for grounds of intervention your petitioners show:

1. Petitioners are common carriers by railroad and as such are engaged, according as their respective lines are located, in the transportation of logs in interstate commerce between points in the State of Florida, on the one hand, and points in the State of Georgia, on the other, as well as in the intrastate transportation of such traffic within the States of Georgia and Florida, respectively, and, as such common carriers, petitioners have an interest in the general level of the rates, both interstate and intrastate, in said territories including such rates as may be established, or may be required to be established, by the Atlantic Coast Line Railroad Company, defendant in this case, for application over the lines of said company,

2. That petitioners have been and are opposed to the establishment and maintenance by said Atlantic Coast Line Railroad Company of the rates now maintained by it for intrastate application on logs within the State of Florida,

and consider these rates to be unduly and unreasonably low and detrimental to the interests of these petitioners; and that petitioners are opposed to the continuance of the said intrastate rates in Florida or to the adoption of these rates for interstate application between points in Florida and points in Georgia, via the lines of the Atlantic Coast Line [fol. 305] Railroad Company or otherwise, and whether for the purpose of establishing reasonable maximum rates under Section 1 of the Act, or for the purpose of removing undue discrimination as complained of in the complaint filed in this proceeding;

3. That it is not the purpose of this intervention to broaden the issues herein.

Wherefore said petitioners pray leave to intervene and be treated as parties hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and to be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

Seaboard Air Line Railway Company, Central of Georgia Railway Company, by Frank W. Gwathmey, Frank W. Gwathmey, Attorney for said Companies. Southern Railway Company, Georgia Southern & Florida Railway Company, by Charles J. Rixey, Charles J. Rixey, Attorney for said Companies.

Dated at Washington, D. C., August 11, 1926.

[fol. 306] Before Interstate Commerce Commission

[Title omitted]

Order Permitting Intervention—Sept. 2, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of The American Short Line Railroad *Company,*

It is ordered, That the said The American Short Line Railroad *Company* be, and it is hereby, permitted to intervene and be treated as a party hereto, with the right to

have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 307] [File endorsement omitted]

BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE—Filed Sept. 2, 1926

Comes now your petitioner, the American Short Line Railroad Association, and respectfully represents that it has an interest in the above entitled proceedings and desires to intervene and become a party to said proceedings, and for grounds of the proposed intervention state:

I

Intervenor is a voluntary Association of several hundred carriers, commonly called Short Line Railroads, as member lines, with its principal offices and place of business at 1319 F Street, N. W., International Building, Washington, D. C., of which Mr. Bird M. Robinson is President and Mr. T. F. Whittelsey Secretary and with offices and place of business in Southern Territory at 101 Marietta Street, Atlanta, Ga., of which Mr. John A. Streyer is Traffic Manager.

II

The member lines of intervenor as shown below are common carriers by railroad and as such are engaged, according

as their respective lines are located, in the transportation of logs between points in the State of Florida, points in the State of Georgia, as well as between points in the State of Florida on the one hand and points in the State of Georgia on the other, and as such common carriers, intervenor as a representative of the member lines, has an interest in the general level of the rates, both interstate and intrastate, in said territories including such rates as may be established or may be required to be established, by the Atlantic Coast Line Railroad Company, defendant in this case, for application over the lines of said company;

III

That petitioners have been and are opposed to the establishment and maintenance *of* said Atlantic Coast Line Railroad Company of the rates now maintained by it for intrastate application on logs within the State of Florida, and consider these rates to be unduly and unreasonably low and detrimental to the interests of these petitioners; and that petitioners are opposed to the continuance of the said intrastate rates in Florida or to the adoption of these rates for interstate application between points in Florida and points in Georgia, via the lines of the Atlantic Coast Line Railroad Company, or otherwise, and whether for the purpose of establishing reasonable maximum rates under Section 1 of the Act, or for the purpose of removing undue discrimina-
[fol. 308] tion as complained of in the complaint filed in this proceeding:

IV

That it is not the purpose of this intervention to broaden the issues herein.

Wherefore said petitioners pray leave to intervene and be treated as parties hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and to be heard in person or by counsel upon brief and at oral argument, if oral argument is granted.

The American Short Line Railroad Company, by
J. A. Streyer, Traffic Manager.

Dated at Atlanta, Ga., August 31st, 1926.

Birmingham, Columbus & St. Andrews Ry.,
Bowdon Railway,
Collins & Glennville Ry. Company,
Elberton & Eastern Railroad,
Fellsmere Railroad,
Flint River, & Northeastern Railroad,
Florida, Central & Gulf Railway,
Gainesville & Northwestern Railroad Co., (Lewis Sanders & Sidney Smith, Recrs.),
Georgia & Florida Railway (John Skelton Williams, Recr.),
Georgia, Ashburn, Sylvester & Camilla Ry. Company,
Georgia, Florida & Alabama Railway,
Georgia Northern Railway,
Greene County Railroad,
Live Oak, Perry & Gulf Railroad,
Louisville & Wadley Railroad Co.,
Macon, Dublin & Savannah R. R. Co.,
Marianna & Blountstown Railroad,
Sandersville Railroad Company,
Savannah & Atlanta Railway, (C. E. Gay, Jr., Recr.),
Savannah & Statesboro Railway,
Sherwood Railway,
Statesboro Northern Railway, (G. & F. Ry., John Skelton Williams, Recr., lessee),
Sylvania Central Ry. Co.,
Talbotton Ry. Company,
Tallulah Falls Ry. Co., (J. F. Gray, Recr.),
Tampa & Gulf Coast R. R. Co.,
Tampa & Jacksonville Ry.,
Tavares & Gulf Railroad,
Union Point & White Plains R. R.,
Wadley Southern Ry. Co.,
Washington & Lincolnton Ry.,
Waycross & Southern R. R. Co.,
Wrightsville & Tonnille R. R. Co.

[fol. 309] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

ORDER PERMITTING INTERVENTION—Sept. 29, 1926

Upon consideration of the record in the above-entitled proceeding and application filed on behalf of Brooks-Scanlon Corporation,

It is ordered, That the said Brooks-Scanlon Corporation be and it is hereby, permitted to intervene and be treated as a party hereto, with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses and be heard in brief and on oral argument, if oral argument is heard; provided, however, that the permission to intervene herein granted shall not be construed to allow intervenor to introduce evidence which will unduly broaden the issues raised in the complaint;

It is further ordered, That a copy of the intervening petition be served upon complainant and defendant; and that a copy of this order be served upon each of the parties to this case.

By the Commission:

George B. McGinty, Secretary. (Seal.)

[fol. 310] BEFORE INTERSTATE COMMERCE COMMISSION

[Title omitted]

PETITION FOR LEAVE TO INTERVENE

Comes now your petitioner, Brooks-Scanlon Corporation, and respectfully represents that it has an interest in the matter in controversy in the above entitled proceeding and desires to intervene in and become a party to said proceeding and for grounds of the proposed intervention says:

I

Your petitioner, Brooks-Scanlon Corporation, is and at all the times hereinafter referred to has been a corporation

duly organized and existing under the laws of the State of Delaware.

The nature of its business ever since the year 1913 has been cutting into logs timber which was standing on lands owned by it in Taylor, Lafayette and Jefferson Counties, in the State of Florida, and causing them to be transported by the Atlantic Coast Line Railroad Company to the mills [fol. 311] and plant of your petitioner on Cedar Creek and St. Johns River at Eastport, a suburb of Jacksonville, Florida, and there manufacturing them into lumber and lumber products and marketing the same.

The present plant and place of business of your petitioner is and since the year 1913 has been at Eastport in the State of Florida aforesaid.

II

That on or about the first day of January, 1914, your petitioner was the owner of approximately a billion feet of standing pine timber and of the land upon which this timber stood in said Counties, and the same was practically accessible from and tributary to the line of railroad of the Atlantic Coast Line Railroad Company and for the purpose of making it possible to move this timber after it was cut into logs to the petitioner's plant at Eastport and there manufacture it into marketable lumber products, the said Railroad Company made a contract with your petitioner to transport over its line this timber when cut into logs and loaded in train-load lots of thirty cars from sidings between Clara and Perry inclusive to the plant of your petitioner at Eastport for Twelve dollars ($12.00) per car of Fifty Thousand (50,000) pounds throughout the entire cut of logs from said timber and to publish, post and file as required by Law, a Tariff fixing a rate for transportation of logs from points between Clara and Perry inclusive to its said plant at Eastport of Twelve dollars ($12.00) per car of [fol. 312] Fifty Thousand (50,000) pounds. That rate and the present rate was duly approved and fixed by the Railroad Commission of the State of Florida and published.

Your petitioner still has of the standing timber aforesaid to be cut into logs and transported to its said plant at least a billion feet in said Counties, and is by far the largest dealer in and manufacturer of forest products in that State.

Your petitioner relying on said contract and on the tariff rate on logs so fixed and approved by the Railroad Commission of Florida, has invested in constructing, enlarging, and equip-ing its plant and necessary equipment for carrying on its logging operations more than Three Million dollars ($3,000,000.00) and has thus built up and established a very large and important industry contributing very materially to the development and prosperity of the country on the line of said Railroad between Perry and Eastport inclusive in said State, and to that of practically the whole State.

Any material increase in the present rate for transporting logs between points in Florida would destroy this industry and render practically valueless this large investment of your petitioner.

This is also true of large investments made by other owners of standing timber and plants for the manufacture of the same in Florida.

III

The present intrastate rate for transportation of logs [fols. 313 & 314] between stations in Florida is remunerative to the Railroad Company.

There are practically no logs in Georgia available for shipment from that State into Florida.

Under the present Intrastate Tariff rates, channels of trade have been established and any material increase in these rates between points in Florida would disrupt them and result in great loss, not alone to your petitioner, but to others engaged in business enterprises there, and to their employees. Especially true is this of the trade route to Jacksonville, over which a large quantity of log business profitable to the carriers is now passing. The volume of traffic in logs moving intrastate in Florida moves principally between a few particular stations.

For the reason that interstate traffic in logs here moving or available is exceedingly small and the interstate movement is out of the ordinary course of existing or prospective trade, interstate commerce is not materially affected and no discrimination in fact exists.

Wherefore said Brooks-Scanlon Corporation, your petitioner, prays leave to intervene and to be treated as a party hereto with the right to have notice of and appear at the

Exhibit No.

Docket 18364

Witness, E. M. Price.

BEFORE THE
INTERSTATE COMMERCE COMMISSION

DOCKET NO. 18364.

GEORGIA PUBLIC SERVICE COMMISSION
VS.
ATLANTIC COAST LINE RAILROAD
COMPANY

RATES ON LOGS FROM FLORIDA TO
GEORGIA POINTS.

Sheet No. 1

Exhibit No.

Docket 18364

Witness, E. M. Price.

COMPARISON OF RATES ON LOGS BETWEEN POINTS IN FLORIDA WITH RATES BETWEEN POINTS IN FLORIDA AND POINTS IN GEORGIA.

Rates in Cents per car 50,000 pounds.

Distance	Florida Intrastate	Florida-Georgia Interstate
5 miles and under	$ 8.55	$12.50
10 miles and over 5	8.55	15.00
20 " " " 10	8.55	17.50
30 " " " 20	8.55	20.00
40 " " " 30	8.55	22.50
50 " " " 40	10.50	25.00
60 " " " 50	10.50	27.50
70 " " " 60	11.50	30.00
80 " " " 70	11.50	32.50
90 " " " 80	11.50	35.00
100 " " " 90	13.00	35.00
110 " " " 100	14.00	37.50
120 " " " 110	16.00	40.00
130 " " " 120	16.00	42.50
140 " " " 130	17.00	42.50
150 " " " 140	17.00	45.00
160 " " " 150	17.00	45.00
170 " " " 160	18.50	47.50

TARIFF AUTHORITY

Florida Intrastate Rates. ACL Ry. GFO 116, ICC. B 2255 Sup. 29.
Florida-Georgia Interstate Rates. J. H. Glenns ICC. A 415 Sup. 27.
(ACL Ry. GFO 253)

STATEMENT OF RATES ON LOGS FROM FLORIDA POINTS TO BAINBRIDGE, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Sheet No. 2

Exhibit No.

Docket 18364

Witness, E. M. Price.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Bainbridge, Ga.
Stringer, Fla.	Bainbridge, Ga.	51	$27.50	$
Lake Butler, Fla.	Jacksonville, Fla.	53	10.50	17.00
Forrester, Fla.	Bainbridge, Ga.	51	27.50	
Townsend, Fla.	Jacksonville, Fla.	54	10.50	17.00
Fincher, Fla.	Bainbridge, Ga.	49	25.00	
Johnstown, Fla.	Jacksonville, Fla.	49	10.50	14.50
Winchester Sdg., Fla.	Bainbridge, Ga.	55	27.50	
Old Town, Fla.	Perry, Fla.	54	10.50	17.00
Miccosukee, Fla.	Bainbridge, Ga.	56	27.50	
Wilcox, Fla.	Perry, Fla.	57	10.50	17.00
Bryants Still, Fla.	Bainbridge, Ga.	56	27.50	
Dukes, Fla.	Jacksonville, Fla.	58	10.50	17.00
Alma, Fla.	Bainbridge, Ga.	54	27.50	
Townsend Still, Fla.	Jacksonville, Fla.	54	10.50	17.00
Brice, Fla.	Bainbridge, Ga.	60	27.50	
Worthington Spgs., Fla	Jacksonville, Fla.	61	11.50	16.00
Monticello, Fla.	Bainbridge, Ga.	60	27.50	
Hardeetown, Fla.	Perry, Fla.	65	11.50	16.00
Wadesboro, Fla.	Bainbridge, Ga.	63	30.00	
Sante Fe, Fla.	Jacksonville, Fla.	65	11.50	18.50
Capitola, Fla.	Bainbridge, Ga.	67	30.00	
Haynesworth, Fla.	Jacksonville, Fla.	69	11.50	18.50
El Destino, Fla.	Bainbridge, Ga.	70	30.00	
Burnetts Lake, Fla.	Jacksonville, Fla.	72	11.50	18.50
Cody, Fla.	Bainbridge, Ga.	74	32.50	
Alachua, Fla.	Jacksonville, Fla.	74	11.50	21.00
Fanlew, Fla.	Bainbridge, Ga.	80	32.50	
Haile, Fla.	Jacksonville, Fla.	81	11.50	21.00
Bakers Mill, Fla.	Bainbridge, Ga.	135	42.50	
Clara, Fla.	Jacksonville, Fla.	135	17.00	25.50
Jasper, Fla.	Bainbridge, Ga.	139	42.50	
Benotis, Fla.	Jacksonville, Fla.	141	17.00	25.50
Marion, Fla.	Bainbridge, Ga.	144	45.00	
Carbur, Fla.	Jacksonville, Fla.	145	17.00	28.00
Suwanee, Fla.	Bainbridge, Ga.	148	45.00	
Stanco, Fla.	Jacksonville, Fla.	150	17.00	28.00
Rixsford. Fla.	Bainbridge, Ga.	150	45.00	
Athena, Fla.	Jacksonville, Fla.	152	17.00	28.00
N. Live Oak, Fla.	Bainbridge, Ga.	154	45.00	
Trilby, Fla.	Perry, Fla.	154	17.00	28.00
Live Oak, Fla.	Bainbridge, Ga.	155	45.00	
Pineland, Fla.	Jacksonville, Fla.	156	17.00	28.00
Padlock. Fla.	Bainbridge, Ga.	159	45.00	
Dade City, Fla.	Perry, Fla.	161	18.50	26.50
Pine Mountain, Fla.	Bainbridge, Ga.	164	47.50	
Ellerslie, Fla.	Perry, Fla.	165	18.50	29.00
McAlpin. Fla.	Bainbridge, Ga.	166	47.50	
Greers, Fla.	Perry, Fla.	166	18.50	29.00

TARIFF AUTHORITY

ACL Ry. GFO 116. ICC B 2255 Sup. 29.
J. H. Glenns ICC A 415 Sup. 27 (ACL GFO 253)
ACL ICC B 2141.

Sheet No. 3

Exhibit No.

Docket 18364

Witness, E. M. Price.

STATEMENT OF RATES ON LOGS FROM FLORIDA POINTS TO ALBANY, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Albany, Ga.
Stringer, Fla.	Albany, Ga.	73	$32.50	
Alachua, Fla.	Jacksonville. Fla.	74	11.50	$21.00
Forrester, Fla.	Albany, Ga.	74	32.50	
Cadillac, Fla.	Jacksonville, Fla.	78	11.50	21.00
Fincher, Fla.	Albany, Ga.	71	32.50	
Usher, Fla.	Perry, Fla.	72	11.50	21.00
Alma, Fla.	Albany, Ga.	77	32.50	
Otter Creek, Fla.	Perry, Fla.	78	11.50	21.00
Winchester Sdg., Fla.	Albany, Ga.	77	32.50	
Cadillac, Fla.	Jacksonville, Fla.	78	11.50	21.00
Bryants Still, Fla.	Albany, Ga.	78	32.50	
Otter Creek, Fla.	Perry, Fla.	78	11.50	21.00
Miccosukee, Fla.	Albany, Ga.	78	32.50	
Cadillac, Fla.	Jacksonville, Fla.	78	11.50	21.00
Brice, Fla.	Albany, Ga.	82	35.00	
Komoko, Fla.	Jacksonville, Fla.	83	11.50	23.50
Monticello, Fla.	Albany, Ga.	82	35.00	
Gunntown, Fla.	Perry, Fla.	84	11.50	23.50
Wadesboro, Fla.	Albany, Ga.	85	35.00	
Hickory, Fla.	Perry, Fla.	87	11.50	23.50
Capitola, Fla.	Albany, Ga.	89	35.00	
Lebanon, Fla.	Perry, Fla.	92	13.00	22.00
El Destino, Fla.	Albany, Ga.	92	35.00	
Tyler, Fla.	Jacksonville, Fla	95	13.00	22.00
Cody, Fla.	Albany, Ga.	96	35.00	
Trenton, Fla.	Jacksonville, Fla.	99	13.00	22.00
Fanlew, Fla.	Albany, Ga.	103	37.50	
Lottieville, Fla.	Jacksonville, Fla.	104	14.00	23.50
Asylum, Fla.	Albany, Ga.	115	40.00	
Eugene, Fla.	Jacksonville, Fla.	115	16.00	24.00
River, Jct., Fla.	Albany, Ga.	117	40.00	
Cross City, Fla.	Jacksonville, Fla.	118	16.00	24.00
Bakers Mill, Fla.	Albany, Ga.	157	45.00	
Dade City, Fla.	Perry, Fla.	161	18.50	26.50
Jasper, Fla.	Albany, Ga.	161	47.50	
Collins, Fla.	Perry Fla.	162	18.50	29.00
Marion, Fla.	Albany, Ga.	166	47.50	
Greers, Fla.	Perry, Fla.	166	18.50	29.00
Suwanee, Fla.	Albany, Ga.	170	47.50	
Lumberton, Fla.	Perry, Fla.	168	18.50	29.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup. 29.
J. H. Glenns ICC. A 415 Sup. 27 (ACL Ry. GFO 253)
ACL. ICC B 2141.

STATEMENT OF RATES ON LOGS FROM FLORIDA POINTS TO THOMASVILLE, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Sheet No. 4

Exhibit No.

Docket 18364

Witness, E. M. Price.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Thomasville, Ga.
Forrester, Fla.	Thomasville, Ga.	15	$17.50	$
Alma, Fla.	Thomasville, Ga.	18	17.50	
Bryants Still, Fla.	Thomasville, Ga.	20	17.50	
Fincher, Fla.	Thomasville, Ga.	13	17.50	
Stringer, Fla.	Thomasville, Ga.	15	17.50	
Winchester Sdg., Fla.	Thomasville, Ga.	19	17.50	
Miccosukee, Fla.	Thomasville, Ga.	20	17.50	
Baldwin, Fla.	Jacksonville, Fla.	20	8.55	8.95
Monticello, Fla	Thomasville, Ga.	24	20.00	
Brice, Fla	Thomasville, Ga.	24	20.00	
Wadesboro, Fla.	Thomasville, Ga.	27	20.00	
Hines, Fla.	Perry, Fla.	34	8.55	11.95
Capitola, Fla.	Thomasville, Ga.	31	22.50	
El Destino, Fla.	Thomasville, Ga.	34	22.50	
Cody, Fla.	Thomasville, Ga.	38	22.50	
Buttcutt, Fla.	Perry, Fla.	38	8.55	13.95
Fanlew, Fla.	Thomasville, Ga.	44	25.00	
Cross City, Fla.	Perry, Fla.	45	10.50	14.50
Bakers Mill, Fla.	Thomasville, Ga.	99	35.00	
Trenton, Fla.	Jacksonville, Fla.	99	13.00	22.00
Jasper, Fla.	Thomasville, Ga.	103	37.50	
Marion, Fla.	Thomasville, Ga.	108	37.50	
Old Town, Fla.	Jacksonville, Fla.	109	14.00	23.50
Suwanee, Fla.	Thomasville, Ga.	112	40.00	
Ricksford, Fla.	Thomasville, Ga.	114	40.00	
N. Live Oak, Fla.	Thomasville, Ga.	118	40.00	
Live Oak, Fla.	Thomasville, Ga.	119	40.00	
Hernando, Fla.	Perry, Fla.	120	16.00	24.00
Padlock, Fla.	Thomasville, Ga.	123	42.50	
Pine Mountain, Fla.	Thomasville, Ga.	128	42.50	
McAlpin, Fla.	Thomasville, Ga.	130	42.50	
Hines, Fla.	Jacksonville, Fla.	128	16.00	26.50
Browns Sdg., Fla.	Thomasville, Ga.	134	42.50	
O'Brien, Fla.	Thomasville, Ga.	137	42.50	
Benotis, Fla.	Jacksonville, Fla.	141	17.00	25.50
Branford, Fla.	Thomasville, Ga.	142	45.00	
Burlington, Fla.	Thomasville, Ga.	149	45.00	
Hildreths, Fla.	Thomasville, Ga.	150	45.00	
Stanco, Fla.	Jacksonville, Fla.	150	17.00	28.00
Lake City Jct., Fla.	Thomasville, Ga.	152	45.00	
Ft. White, Fla.	Thomasville, Ga.	156	45.00	
Herlong, Fla.	Thomasville, Ga.	156	45.00	
Watkins, Spur, Fla.	Thomasville, Ga.	156	45.00	
Shelton, Fla.	Thomasville, Ga.	160	45.00	
Pineland, Fla.	Jacksonville, Fla.	156	17.00	28.00
Columbia, Fla.	Thomasville, Ga.	162	47.50	
Bass, Fla.	Thomasville, Ga.	165	47.50	
High Spgs., Fla.	Thomasville, Ga.	165	47.50	
Sisters Welcome, Fla.	Thomasville, Ga.	167	47.50	
Lumberton, Fla.	Perry, Fla.	168	18.50	29.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup. 29.
J. H. Glenns ICC A 415 Sup. 27 (ACL GFO 253)
ACL Ry. ICC. B 2141.

STATEMENT OF RATES ON LOGS FROM FLORIDA POIN TS TO QUITMAN, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Witness, E. M. Price.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Quitman, Ga.
Fincher, Fla.	Quitman, Ga.	39	$22.50	
Godwins & Harrell, Fla.	Jacksonville, Fla.	39	8.55	$13.95
Stringer, Fla.	Quitman, Ga.	41	25.00	
Forrester, Fla.	Quitman, Ga.	42	25.00	
Alma, Fla.	Quitman, Ga.	44	25.00	
Winchester Sdg., Fla.	Quitman, Ga.	45	25.00	
Miccosukee, Fla.	Quitman, Ga.	46	25.00	
Bryants Still, Fla.	Quitman, Ga.	46	25.00	
Brice, Fla.	Quitman, Ga.	50	25.00	
Monticello, Fla.	Quitman, Ga.	50	25.00	
Lake Butler, Fla.	Jacksonville, Fla.	53	10.50	14.50
Wadesboro, Fla.	Quitman, Ga.	53	27.50	
Capitola, Fla.	Quitman, Ga.	57	27.50	
El Destino, Fla.	Quitman, Ga.	60	27.50	
Munich, Fla.	Jacksonville, Fla.	59	10.50	17.00
Cody, Fla.	Quitman, Ga.	64	30.00	
Hardeetown, Fla.	Perry, Fla.	65	11.50	18.50
Fanlew, Fla.	Quitman, Ga.	71	32.50	
Bakers Mill, Fla.	Quitman, Ga.	72	32.50	
Jasper, Fla.	Quitman, Ga.	76	32.50	
Otter Creek, Fla.	Perry, Fla.	78	11.50	21.00
Marion, Fla.	Quitman, Ga.	82	35.00	
Suwanee, Fla.	Quitman, Ga.	85	35.00	
Rixsford, Fla.	Quitman, Ga.	88	35.00	
Hickory, Fla.	Perry, Fla.	87	11.50	23.50
N. Live Oak, Fla.	Quitman, Ga.	92	35.00	
Live Oak, Fla.	Quitman, Ga.	92	35.00	
Padlock, Fla.	Quitman, Ga.	97	35.00	
Trenton, Fla.	Jacksonville, Fla.	99	13.00	22.00
Pine Mountain, Fla.	Quitman, Ga.	102	37.50	
McAlpin, Fla.	Quitman, Ga.	104	37.50	
Browns Sdg., Fla.	Quitman, Ga.	108	$37.50	$-
Gibora, Fla.	Perry, Fla.	110	14.00	23.50
O'Brien, Fla.	Quitman, Ga.	111	40.00	
Branford, Fla.	Quitman, Ga.	116	40.00	
Hernando, Fla.	Perry, Fla.	120	16.00	24.00
Burlington, Fla.	Quitman, Ga.	123	42.50	
Hildreths, Fla.	Quitman, Ga.	124	42.50	
Lake City Jct., Fla.	Quitman, Ga.	127	42.50	
Ft. White, Fla.	Quitman, Ga.	130	42.50	
Herlong, Fla.	Quitman, Ga.	130	42.50	
Watkins Spur, Fla.	Quitman, Ga.	130	42.50	
Floral City, Fla.	Perry, Fla.	132	17.00	25.50
Shelton, Fla.	Quitman, Ga.	134	42.50	
Columbia, Fla.	Quitman, Ga.	136	42.50	
Bass, Fla.	Quitman, Ga.	139	42.50	
High Spgs., Fla.	Quitman, Ga.	139	42.50	
Benotis, Fla.	Jacksonville, Fla.	141	17.00	25.50
Sisters Welcome, Fla.	Quitman, Ga.	141	45.00	
Lake City, Fla.	Quitman, Ga.	146	45.00	
E. Alachua, Fla.	Quitman, Ga.	147	45.00	
Burnetts Lake, Fla.	Quitman, Ga.	148	45.00	
Stanco, Fla.	Jacksonville, Fla.	150	17.00	28.00
Hague, Fla.	Quitman, Ga.	152	45.00	
Japps, Fla.	Quitman, Ga.	153	45.00	
Gracys, Fla.	Quitman, Ga.	155	45.00	
Paradise, Fla.	Quitman, Ga.	158	45.00	
Jay Bird, Fla.	Quitman, Ga.	159	45.00	
Dade City, Fla.	Perry, Fla.	161	18.50	26.50
T. & J. Crossing	Quitman, Ga.	161	47.50	
Gainesville, Fla.	Quitman, Ga.	162	47.50	
Lumberton, Fla.	Perry, Fla.	168	18.50	29.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC B 2255. Sup. 29.
J. H. Glenns ICC A 415. Sup. 27 (ACL GFO 253)
ACL ICC B 2141.

Sheet No. 6

Exhibit No.

Docket 18364

Witness, E. M. Price.

STATEMENT OF RATES ON LOGS FROM FLORIDA POINTS TO VALDOSTA, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Valdosta, Ga.
Bakers Mill, Fla.	Valdosta, Ga.	55	$27.50	$
Fincher, Fla.	Valdosta, Ga.	56	27.50	
Forrester, Fla.	Valdosta, Ga.	59	27.50	
Stringer, Fla.	Valdosta, Ga.	58	27.50	
Jasper, Fla.	Valdosta, Ga.	59	27.50	
Munich, Fla.	Jacksonville, Fla.	59	10.50	17.00
Alma, Fla.	Valdosta, Ga.	61	30.00	
Winchester Sdg., Fla.	Valdosta, Ga.	62	30.00	
Miccosukee, Fla.	Valdosta, Ga.	63	30.00	
Bryants Still, Fla.	Valdosta, Ga.	63	30.00	
Marion, Fla.	Valdosta, Ga.	65	30.00	
Brice, Fla.	Valdosta, Ga.	67	30.00	
Monticello, Fla.	Valdosta, Ga.	67	30.00	
Suwanee, Fla.	Valdosta, Ga.	68	30.00	
Wadesboro, Fla.	Valdosta, Ga.	70	30.00	
Usher, Fla.	Perry, Fla.	72	11.50	18.50
Rixsford, Fla.	Valdosta, Ga.	71	32.50	
Capitola, Fla.	Valdosta, Ga.	74	32.50	
N. Live Oak, Fla.	Valdosta, Ga.	75	32.50	
Live Oak, Fla.	Valdosta, Ga.	75	32.50	
El Destino, Fla.	Valdosta, Ga.	77	32.50	
Padlock, Fla.	Valdosta, Ga.	80	32.50	
Hickory, Fla.	Perry, Fla.	87	11.50	21.00
Cody, Fla.	Valdosta, Ga.	81	35.00	
Pine Mountain, Fla.	Valdosta, Ga.	85	35.00	
McAlpin, Fla.	Valdosta, Ga.	87	35.00	
Fanlew, Fla.	Valdosta, Ga.	88	35.00	
Hickory, Fla.	Perry, Fla.	87	11.50	23.50
Browns Sdg., Fla.	Valdosta, Ga.	91	35.00	
O'Brien, Fla.	Valdosta, Ga.	94	35.00	
Branford, Fla.	Valdosta, Ga.	99	35.00	
Trenton, Fla.	Jacksonville, Fla.	99	13.00	22.00
Burlington, Fla.	Valdosta, Ga.	106	37.50	
Hildreths, Fla.	Valdosta, Ga.	107	37.50	
Lake City Jct., Fla.	Valdosta, Ga.	110	37.50	
Gibora, Fla.	Perry, Fla.	110	14.00	23.50
Ft. White, Fla.	Valdosta, Ga.	113	40.00	
Herlong, Fla.	Valdosta, Ga.	113	40.00	
Watkins Spur, Fla.	Valdosta, Ga.	113	40.00	
Shelton, Fla.	Valdosta, Ga.	117	40.00	
Columbia, Fla.	Valdosta, Ga.	119	40.00	
Hernando, Fla.	Perry, Fla.	120	16.00	24.00
Bass, Fla.	Valdosta, Ga.	122	42.50	
High Spgs., Fla.	Valdosta, Ga.	122	$42.50	$
Sisters Welcome, Fla.	Valdosta, Ga.	124	42.50	
Lake City, Fla.	Valdosta, Ga.	129	42.50	
E. Alachua, Fla.	Valdosta, Ga.	130	42.50	
Hines, Fla.	Jacksonville, Fla.	128	16.00	26.50
Burnetts Lake, Fla.	Valdosta, Ga.	131	42.50	
Alachua, Fla.	Valdosta, Ga.	133	42.50	
Florida Transfer, Fla.	Valdosta, Ga.	133	42.50	
Valdosta Crossing, Fla.	Valdosta, Ga.	134	42.50	
Haynesworth, Fla.	Valdosta, Ga.	134	42.50	
Hague, Fla.	Valdosta, Ga.	135	42.50	
Japps, Fla.	Valdosta, Ga.	136	42.50	
Gracys, Fla.	Valdosta Ga.	138	42.50	
Cambon, Fla.	Valdosta, Ga.	139	42.50	
Sante Fe, Fla.	Valdosta, Ga.	139	42.50	
Benotis, Fla.	Jacksonville, Fla.	141	17.00	25.50
Paradise, Fla.	Valdosta, Ga.	141	45.00	
Jay Bird, Fla.	Valdosta, Ga.	142	45.00	
Worthington Spgs., Fla.	Valdosta, Ga.	142	45.00	
Munich, Fla.	Valdosta, Ga.	144	45.00	
T. & J. Crossing, Fla.	Valdosta, Ga.	144	45.00	
Gainesville, Fla.	Valdosta, Ga.	145	45.00	
Mandeville, Fla.	Valdosta, Ga.	144	45.00	
Duke, Fla.	Valdosta, Ga.	145	45.00	
Baldwin, Fla.	Valdosta, Ga.	149	45.00	
Townsend Still, Fla.	Valdosta, Ga.	150	45.00	
Stanco, Fla.	Jacksonville, Fla.	150	17.00	28.00
Lake Butler, Fla.	Valdosta, Ga.	151	45.00	
Mattox, Fla.	Valdosta, Ga.	154	45.00	
Johnstown, Fla.	Valdosta, Ga.	155	45.00	
McPherson, Fla.	Valdosta, Ga.	157	45.00	
La Buena, Ga.	Valdosta, Ga.	159	45.00	
Raiford, Fla.	Valdosta, Ga.	158	45.00	
Pineland, Fla.	Jacksonville, Fla.	156	17.00	28.00
Bessent, Fla.	Valdosta, Ga.	161	47.50	
Steckert, Fla.	Valdosta, Ga.	162	47.50	
Ellerbee, Fla.	Valdosta, Ga.	161	47.50	
Godwins & Harrell Fla.	Valdosta, Ga.	165	47.50	
Sapp, Fla.	Valdosta, Ga.	165	47.50	
Manning, Fla.	Valdosta, Ga.	166	47.50	
Lumberton, Fla.	Perry, Fla.	168	18.50	27.50

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC B 2255 Sup. 29.
Glenns ICC A 415Sup.27 (ACL GFO 253)
ACL ICC B 2141.

Sheet No. 7

Exhibit No.

Docket 18364

Witness, E. M. Price.

STATEMENT OF RATES ON LOGS FROM FLORIDA POINTS TO WAYCROSS, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Waycross, Ga.
Bakers, Mill, Fla.	Waycross, Ga.	63	$30.00	$
Sante Fe, Fla.	Jacksonville, Fla.	65	11.50	18.50
Jasper, Fla.	Waycross, Ga.	67	30.00	
Haynesworth, Fla.	Jacksonville, Fla.	69	11.50	18.50
Marion, Fla.	Waycross, Ga.	72	32.50	
Burnetts Lake, Fla.	Jacksonville, Fla.	72	11.50	21.00
Fla. Transfer, Fla.	Waycross, Ga.	72	32.50	
Usher, Fla.	Perry, Fla.	72	11.50	21.00
Valdosta Crossing, Fla.	Waycross, Ga.	73	32.50	
Alachua, Fla.	Jacksonville, Fla.	74	11.50	21.00
Suwanee, Fla.	Waycross, Ga.	76	32.50	
Cadillac, Fla.	Jacksonville, Fla.	78	11.50	21.00
Rixsford, Fla.	Waycross, Ga.	78	32.50	
Otter Creek, Fla.	Perry, Fla.	78	11.50	21.00
Cambon, Fla.	Waycross, Ga.	79	32.50	
Haile, Fla.	Jacksonville, Fla.	81	11.50	21.00
N. Live Oak, Fla.	Waycross, Ga.	82	35.00	
Komoko, Fla.	Jacksonville, Fla.	83	11.50	23.50
Live Oak, Fla.	Waycross, Ga.	83	35.00	
Gunntown, Fla.	Perry, Fla.	84	11.50	23.50
Mandeville, Fla.	Waycross, Ga.	84	35.00	
Hickory, Fla.	Perry, Fla.	87	11.50	23.50
Padlock, Fla.	Waycross, Ga.	88	35.00	
Lebanon, Fla.	Perry, Fla.	92	11.50	23.50
Baldwin, Fla.	Waycross, Ga.	89	35.00	
Tyler, Fla.	Jacksonville, Fla.	95	13.00	22.00
Pine Mountain, Fla.	Waycross, Ga.	92	35.00	
Tidewater, Fla.	Perry, Fla.	97	13.00	22.00
Mattox. Fla.	Waycross, Ga.	93	35.00	
Tyler, Fla.	Jacksonville, Fla.	95	13.00	22.00
McAlpin, Fla.	Waycross, Ga.	94	35.00	
Tidewater, Fla.	Perry, Fla.	97	13.00	22.00
McPherson, Fla.	Waycross, Ga.	97	35.00	
Steen, Fla.	Perry, Fla.	98	13.00	22.00
Browns Sdg., Fla.	Waycross. Ga.	98	35.00	
Trenton, Fla.	Jacksonville. Fla.	99	13.00	22.00
La Buena. Fla.	Waycross, Ga.	99	35.00	
Baskins, Fla.	Perry, Fla.	100	13.00	22.00
Bessent, Fla.	Waycross, Ga.	100	35.00	
Kemp, Fla.	Perry, Fla.	100	13.00	22.00
Steckert. Fla.	Waycross. Ga.	101	37.50	
Lottieville. Fla.	Jacksonville. Fla.	104	14.00	23.50
O'Brien, Fla.	Waycross, Ga.	101	37.50	
Wilcox, Fla.	Jacksonville, Fla.	105	$14.00	$23.50
Manning, Fla.	Waycross, Ga.	105	37.50	
Dunnellon, Fla.	Perry, Fla.	107	14.00	23.50
Branford, Fla.	Waycross, Ga.	107	37.50	
Old Town, Fla.	Jacksonville, Fla.	109	14.00	23.50
Sapp, Fla.	Waycross, Ga.	107	37.50	
Gibora, Fla.	Perry, Fla.	110	14.00	23.50
Godwins &Harrell, Fla.	Waycross, Ga.	108	37.50	
Old Town, Fla.	Jacksonville, Fla.	109	14.00	23.50
Ellerbee, Fla.	Waycross, Ga.	111	40.00	
Ladonia, Fla.	Perry, Fla.	114	16.00	24.00
Burlington, Fla.	Waycross, Ga.	113	40.00	
Eugene, Fla.	Jacksonville, Fla.	115	16.00	24.00
Hildreths, Fla.	Waycross, Ga.	114	40.00	
Ladonia, Fla.	Perry, Fla.	114	16.00	24.00
Raiford, Fla.	Waycross, Ga.	114	40.00	
Eugene, Fla.	Jacksonville, Fla.	115	16.00	24.00
Lake City Jct., Fla.	Waycross, Ga.	117	40.00	
Cross City, Fla.	Jacksonville, Fla.	118	16.00	$24.00
Johnstown, Fla.	Waycross, Ga.	118	40.00	
Shamrock, Fla.	Jacksonville, Fla.	119	16.00	24.00
Herlong, Fla.	Waycross, Ga.	120	40.00	
Ft. White, Fla.	Waycross, Ga.	120	40.00	
Buttcutt, Fla.	Jacksonville, Fla.	124	16.00	24.00
Forrester, Fla.	Waycross, Ga.	119	40.00	
Inverness, Fla.	Perry, Fla.	125	16.00	24.00
Watkins Spur, Fla.	Waycross, Ga.	121	42.50	
Alma, Fla.	Waycross, Ga.	122	42.50	
Lake Butler, Fla.	Waycross, Ga.	122	42.50	
Townsend Still, Fla.	Waycross, Ga.	123	42.50	
Bryants Still, Fla.	Waycross, Ga.	123	42.50	
Shelton. Fla.	Waycross. Ga.	124	42.50	
Buttcutt, Fla.	Jacksonville, Fla.	124	16.00	26.50
Fincher. Fla.	Waycross. Ga.	116	40.00	
Cross City. Fla.	Jacksonville. Fla.	118	16.00	24.00
Stringer, Fla.	Waycross, Ga.	119	40.00	
Hernando, Fla.	Perry, Fla.	120	16.00	24.00
Winchester Sdg., Fla.	Waycross, Ga.	123	42.50	
Iverness, Fla.	Perry, Fla.	125	16.00	26.50
Miccosukee. Fla.	Waycross. Ga.	124	42.50	
Buttcutt, Fla.	Jacksonville. Fla	124	16.00	26.50
Columbia, Fla.	Waycross, Ga.	126	42.50	

(Continued on page 7½)

STATEMENT OF RATES ON LOGS FROM FLORIDA POINTS TO WAYCROSS, GA., COMPARED WITH RATES FROM FLORIDA POINTS TO FLORIDA MANUFACTURING POINTS.

Sheet No. 71½

Exhibit No.

Docket 18364

Witness, E. M. Price.

Rates in Cents per car 50,000 pounds.

From	To	Distance Miles	Rate	Discrimination Against Waycross, Ga.
Hines, Fla.	Jacksonville, Fla.	128	$16.00	$26.50
Brice, Fla.	Waycross, Ga.	127	42.50	
Hines, Fla.	Jacksonville, Fla.	128	16.00	26.50
Duke, Fla.	Waycross, Ga.	128	42.50	
Hines, Fla.	Jacksonville, Fla.	128	16.00	26.50
Munich, Fla.	Waycross, Ga.	128	42.50	
Hines, Fla.	Jacksonville, Fla.	128	16.00	26.50
Bass, Fla.	Waycross, Ga.	129	42.50	
Floral City, Fla.	Perry, Fla.	132	17.00	25.50
Monticello, Fla.	Waycross, Ga.	128	42.50	
Hines, Fla.	Jacksonville, Fla.	128	16.00	26.50
Worthington Spgs, Fla.	Waycross, Ga.	130	42.50	
Floral City, Fla.	Perry, Fla.	132	17.00	25.50
Wadesboro, Fla.	Waycross, Ga.	130	42.50	
Floral City, Fla.	Perry, Fla.	132	17.00	25.50
High Springs, Fla.	Waycross, Ga.	130	42.50	
Floral City, Fla.	Perry, Fla.	132	17.00	25.00
Sisters Welcome, Fla.	Waycross, Ga.	131	42.50	
Clara, Fla.	Jacksonville, Fla.	135	17.00	25.50
Sante Fe, Fla.	Waycross, Ga.	134	42.50	
Pineola, Fla.	Perry, Fla.	137	17.00	25.50
Capitola, Fla.	Waycross, Ga.	135	42.50	
Clara, Fla.	Jacksonville, Fla.	135	17.00	25.50
Lake City, Fla.	Waycross, Ga.	136	42.50	
Pineola, Fla.	Perry, Fla.	137	17.00	25.50
E. Alachua, Fla.	Waycross, Ga.	137	42.50	
Pineola, Fla.	Perry, Fla.	137	17.00	25.50
El Destino, Fla.	Waycross, Ga.	138	42.50	
Haynesworth, Fla.	Waycross, Ga.	138	42.50	
Burnetts Lake, Fla.	Waycross, Ga.	139	42.50	
Alachua, Fla.	Waycross, Ga.	140	42.50	
Benotis, Fla.	Jacksonville, Fla.	141	17.00	25.50
Cody, Fla.	Waycross, Ga.	141	45.00	
Hague, Fla.	Waycross, Ga.	142	45.00	
Japps, Fla.	Waycross, Ga.	143	45.00	
Gracys, Fla.	Waycross, Ga.	146	45.00	
Paradise, Fla.	Waycross, Ga.	148	45.00	
Fanlew, Fla.	Waycross, Ga.	148	45.00	
Jay Bird, Fla.	Waycross, Ga.	149	45.00	
Stanco, Fla.	Jacksonville, Fla.	150	17.00	28.00
T. & J. Crossing, Fla.	Waycross, Ga.	151	45.00	
Gainesville, Fla.	Waycross, Ga.	152	45.00	
Trilby, Fla.	Perry, Fla.	154	17.00	28.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup. 29
Glenns ICC A 415 Sup. 27 (ACL GFO 253).
ACL ICC. B 2141.

Sheet No. 8

Exhibit No.

Docket 18364

Witness, E. M. Price.

STATEMENT SHOWING DISCRIMINATIONS AGAINST THOMASVILLE, GA., IN FAVOR JACKSONVILLE, FLA., ON LOGS FROM POINTS IN FLORIDA FOR THE SAME OR GREATER DISTANCE.

Rates in Cents per car 50,000 pounds.

From	To Jacksonville, Fla. Distance Miles	Rate	To Thomasville, Ga. Distance Miles	Rate	"Note" Discrimination Against Thomasville, Ga.
Bakers Mill, Fla	138	$17.00	99	$35.00	$54.00
Jasper, Fla.	142	17.00	103	37.50	61.50
Marion, Fla.	139	17.00	108	37.50	61.50
Suwanee, Fla.	135	17.00	112	40.00	69.00
Rixsford, Fla.	132	17.00	114	40.00	69.00
Live Oak, Fla.	128	16.00	119	40.00	72.00
Padlock, Fla.	123	16.00	123	42.50	79.50

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup. 29.
J. H. Glenns ICC A-415 Sup. 27 (ACL GFO 253)
ACL Ry. ICC B 2141.

Note: Discrimination is based on freight cost of Logs to produce a car of finished material, estimated at 3 cars of Logs to 1 car finished material.

STATEMENT SHOWING DISCRIMINATIONS AGAINST QUITMAN, GA., IN FAVOR OF JACKSONVILLE, FLA., ON LOGS FROM POINTS IN FLORIDA FOR THE SAME OR GREATER DISTANCE

Rates in Cents per car 50,000 pounds.

From	To Jacksonville, Fla. Distance Miles	Rate	To Quitman, Ga. Distance Miles	Rate	"Note" Discrimination Against Quitman, Ga.
Bakers Mill, Fla.	138	$17.00	72	$32.50	$46.50
Jasper, Fla.	142	17.00	76	32.50	46.50
Marion, Fla.	139	17.00	82	35.00	54.00
Suwanee, Fla.	135	17.00	85	35.00	54.00
Rixsford, Fla.	132	17.00	88	35.00	54.00
Live Oak, Fla.	128	16.00	92	35.00	57.00
Padlock, Fla.	123	16.00	97	35.00	57.00
Pine Mountain, Fla.	118	16.00	102	37.50	64.50
McAlpin, Fla.	117	16.00	104	37.50	64.50
Browns Sdg., Fla.	113	16.00	108	37.50	64.50
O'Brien, Fla.	110	14.00	111	40.00	78.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup. 29.
J. H. Glenns ICC A-415 Sup. 27 (ACL Ry. GFO 253)
ACL Ry. ICC B 2141.

Note: Discrimination is based on freight cost of Logs to produce a car of finished material, estimated at 3 cars logs to 1 car finished material.

STATEMENT SHOWING DISCRIMINATIONS AGAINST VALDOSTA, GA., IN FAVOR JACKSONVILLE AND PERRY, FLA., ON LOGS FROM POINTS IN FLORIDA FOR THE SAME OR GREATER DISTANCE

Rates in Cents per car 50,000 pounds.

From	To Jacksonville, Fla. Distance Miles	Rate	To Valdosta, Ga. Distance Miles	Rate	"Note" Discrimination Against Valdosta, Ga
Bakers Mill, Fla.	138	$17.00	55	$27.50	$31.50
Jasper, Fla.	142	17.00	59	27.50	31.50
Marion, Fla.	139	17.00	65	30.00	39.00
Suwanee, Fla.	135	17.00	68	30.00	39.00
Rixsford, Fla.	132	17.00	71	32.50	46.50
Live Oak, Fla.	128	16.00	75	32.50	49.50
Padlock, Fla.	123	16.00	80	32.50	49.50
Pine Mountain, Fla.	118	16.00	85	35.00	57.00
McAlpin, Fla.	117	16.00	87	35.00	57.00
Browns Sdg., Fla.	113	16.00	91	35.00	57.00
O'Brien, Fla.	110	14.00	94	35.00	63.00
Branford, Fla.	104	14.00	99	35.00	63.00
	To Perry, Fla.				
Cambon, Fla.	158	17.00	139	42.50	76.50
Mandeville, Fla.	148	17.00	144	45.00	84.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup. 29.
J. H. Glenns ICC A-415 Sup. 27 (ACL Ry. GFO 253)
ACL Ry. ICC B 2141.

Note: Discrimination is based on freight cost of Logs to produce a car of finished material, estimated at 3 cars of Logs to 1 car finished material.

STATEMENT SHOWING DISCRIMINATIONS AGAINST WAYCROSS, GA., IN FAVOR JACKSONVILLE, FLA., AND PERRY, FLA., ON LOGS FROM POINTS IN FLORIDA FOR THE SAME OR GREATER DISTANCE.

Witness, E. M. Price.

Rates in Cents per car 50,000 pounds.

From	To Jacksonville, Fla. Distance Miles	Rate	To Waycross, Ga. Distance Miles	Rate	"Note" Discrimination Against Waycross, Ga.
Bakers Mill, Fla.	138	$17.00	63	$30.00	$39.00
Jasper, Fla.	142	17.00	67	30.00	39.00
Marion, Fla.	139	17.00	72	32.50	46.50
Suwanee, Fla.	135	17.00	76	32.50	46.50
Rixsford, Fla.	132	17.00	78	32.50	46.50
Live Oak, Fla.	128	16.00	83	35.00	57.00
Padlock, Fla.	123	16.00	88	35.00	57.00
Pine Mountain, Fla.	118	16.00	92	35.00	57.00
McAlpin, Fla.	117	16.00	94	35.00	57.00
Browns Sdg., Fla.	113	16.00	98	35.00	57.00
O'Brien, Fla.	110	14.00	101	37.50	70.50
	To Perry, Fla.				
Cambon, Fla.	153	17.00	79	32.50	46.50
Mandeville, Fla.	148	17.00	84	35.00	54.00
Baldwin, Fla.	143	17.00	89	35.00	54.00
Mattox, Fla.	138	17.00	93	35.00	54.00
McPherson, Fla.	135	17.00	97	35.00	54.00
La Buena, Fla.	133	17.00	99	35.00	54.00
Bessent, Fla.	131	17.00	100	35.00	54.00
Steckert, Fla.	130	16.00	101	37.50	64.50
Manning, Fla.	126	16.00	105	37.50	64.50
Sapp, Fla.	124	16.00	107	37.50	64.50
Godwins & Harrell Fla.	124	16.00	108	37.50	64.50
Ellerbee, Fla.	120	16.00	111	40.00	72.00
Raiford, Fla.	117	16.00	114	40.00	72.00

TARIFF AUTHORITY

ACL Ry. GFO 116 ICC. B 2255 Sup 29.
J. H. Glenns ICC A 415 Sup 27. (ACL Ry GFO 253)
ACL Ry ICC B 2141.

Note: Discrimination is based on freight cost of logs to produce a car of finished material, estimated at 3 cars logs for 1 car finished material.

taking of testimony, produce and cross-examine witnesses and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

Brooks-Scanlon Corporation, Petitioner, by P. A. Brooks, Secretary. P. O. Address: Eastport, Florida. (Corporate Seal.) Edward P. Sanborn, Petitioner's Attorney, 520 Guardian Life Bldg., Saint Paul, Minnesota.

Dated at Eastport, Florida, September 27, 1926.

(Here follows Exhibit No. 1, side folios 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, and 327.)

[fol. 328]

INTERVENERS' EXHIBIT 2

I. C. C. Docket 18364

Witness: Abrams

Comparison of Rates on Logs, C. L.

In Cents per 100 Pounds

	1	2	3	4	5	6	7	8	9	10	11	12
5 Miles	1.71	2.14	2.50	2.81	2.14	2.88	6.7	6.0	2.88	...	...	2.5
10 "	1.71	2.14	3.00	2.81	2.14	2.88	7.3	7.0	2.88	...	...	3.0
15 "	1.71	2.37	3.50	2.81	2.37	2.88	8.3	8.0	3.25	...	...	3.0
20 "	1.71	2.37	3.50	2.81	2.37	2.88	8.3	8.0	3.25	...	...	3.5
25 "	1.71	2.75	4.00	3.37	2.75	3.42	8.5	8.5	3.50	...	...	3.5
30 "	1.71	2.75	4.00	3.37	2.75	3.42	8.5	8.5	3.50	3.5	...	4.0
35 "	1.71	2.88	4.50	3.94	2.88	4.20	9.2	9.0	4.00	4.0	...	4.0
40 "	1.71	2.88	4.50	3.94	2.88	4.20	9.2	9.0	4.00	4.0	...	4.0
45 "	2.10	3.25	5.00	3.94	3.25	4.20	9.6	10.5	4.25	4.5	...	4.5
50 "	2.10	3.25	5.00	3.94	3.25	4.20	9.6	10.5	4.25	4.5	...	4.5
55 "	2.10	3.50	5.50	4.50	3.50	4.60	10.2	11.0	4.63	4.5	...	4.5
60 "	2.10	3.50	5.50	4.50	3.50	4.60	10.2	11.0	4.63	4.5	...	5.0
65 "	2.30	3.75	6.00	4.50	3.75	4.60	10.4	11.5	5.00	5.0	...	5.0
70 "	2.30	3.75	6.00	4.50	3.75	4.60	10.4	11.5	5.00	5.0	...	5.0

75	"	2.30	4.00	6.50	5.06	4.00	5.20	10.8	11.5	5.38	5.0	...	5.5
80	"	2.30	4.00	6.50	5.06	4.00	5.20	10.8	11.5	5.38	5.0	...	5.5
85	"	2.30	4.25	7.00	5.63	4.25	5.60	11.2	13.0	5.63	6.0	...	5.5
90	"	2.30	4.25	7.00	5.63	4.25	5.60	11.2	13.0	5.63	6.0	...	6.0
95	"	2.60	4.50	7.00	6.19	4.50	6.40	11.9	13.5	6.13	6.5	...	6.0
100	"	2.60	4.50	7.00	6.19	4.50	6.40	11.9	13.5	6.13	6.5	6.5	6.0
110	"	2.80	4.62	7.50	6.19	4.62	6.40	12.1	14.0	6.25	6.5	6.5	6.5
120	"	3.20	5.00	8.00	6.19	5.00	6.40	12.3	15.0	6.75	7.0	7.0	6.5
130	"	3.20	5.13	8.50	6.75	5.13	6.80	12.9	16.0	7.13	...	7.0	7.0
140	"	3.40	5.13	8.50	6.75	5.13	6.80	12.9	16.0	7.38	...	7.5	7.0
150	"	3.40	5.50	9.00	7.31	5.50	7.40	13.3	16.0	7.75	...	8.0	7.5
160	"	3.40	5.75	9.00	...	5.75	...	14.0	17.0	8.25	...	8.0	7.5
170	"	3.70	6.25	9.50	...	6.25	...	14.6	17.0	8.50	...	8.5	8.0

[fol. 329] Explanation of Columns

1. Florida Intrastate Rates applicable between points on the A. C. L. R. R. on Logs, carloads, except Cedar Logs, 50,000 pounds per car, reduced to cents per 100 lbs. Supplement 29 to A. C. L. R. R., I. C. C. B-2255. (So-called Cummer Scale.)

2. Florida Intrastate Rates applicable between points on the A. C. L. R. R. on Logs, viz: Ash, Gum, Hickory, Oak, Pine and Cypress not over six feet in length per car 40,000 pounds reduced to cents per 100 pounds. A. C. L. R. R. Florida Local Tariff No. 19, I. C. C. B-2370.

3. Interstate Rates A. C. L. R. R. applicable between Alabama and Georgia points; and between Florida and South Carolina points shown in the tariff on the one hand, and Alabama and Georgia points on the other (between Florida points indicated and Georgia points). Supplement 27 to Agent J. H. Glenn's Southern Lumber Tariff No. 6, I. C. C. A-415, on Logs (except Walnut, Cherry and Cedar Logs). carloads, 40,000 pounds minimum.

4. Between points in Florida on S. A. L. Ry. applicable on Logs (except Cedar Logs): over 6 feet in length and 8 inches or more in diameter at small end, for local consumption or for manufacture and reshipment, the manufactured product to be reshipped via S. A. L. Ry. Carload minimum weight 3,500 feet: Per 1,000 feet Board Measure Doyle Rule (See S. A. L. Ry. tariff I. C. C. A-4376). Reduced to cents per 100 pounds on basis weight of 10,000 pounds per 1,000 feet S. A. L. Ry. Florida Local Tariff No. 7, I. C. C. A-7148. (Rates in tariff apply on basis board measure.)

5. Between points in Florida on S. A. L. Ry. applicable on Logs: Ash, Gum, Hickory, Oak, Pine and Cypress not over 6 feet in length per car 40,000 pounds reduced to cents per 100 pounds—S. A. L. Ry. Florida Local Tariff No. 7, I. C. C. A-7148.

6. Between points in Florida on S. A. L. Ry. applicable on Logs, per car 2,500 feet. Reduced to cents per 100 pounds—on basis 25,000 pounds per 2,500 feet—S. A. L. Ry. Florida Local Tariff No. 7, I. C. C. A-7148. (Rates in tariff apply on basis log measure.)

7. Between points in Florida on S. A. L. Ry. applicable on Logs, Cedar, per car 24,000 pounds. Reduced to cents per 100 pounds S. A. L. Ry. Florida Local Tariff No. 7, I. C. C. A-7148.

8. Interstate Rates S. A. L. Ry. applicable generally between points in Virginia, North Carolina and South Carolina on the S. A. L. Ry. on Logs, (except Cherry and Walnut), C. L. 30,000 pounds minimum—S. A. L. Ry. Commodity Interstate Mileage Tariff 6, I. C. C. A-7150.

[fol. 330] 9. Interstate Rates applicable from South Carolina points to Savannah, Ga. as prescribed by Interstate Commerce Commission Docket 9134 (50 I. C. C. 81), (affected by the general changes), reduced to cents per 100 pounds. (So-called Pierpont Scale.)

10. Rates proposed by Examiner Cummings in Docket 17043. It will be observed these rates approximate closely those prescribed in the Pierpont Case Docket 9134.

11. Interstate Rates—Prescribed by the Interstate Commerce Commission in Docket 11414, 62 I. C. C. 669, for single line application, from points in South Carolina to North Carolina points.

12. Rates prescribed, and later suspended, for application between points in Georgia, by Georgia Public Service Commission in Docket 16019.

Norfolk, Va., Oct. 15th, 1926.

[fol. 331] INTERVENER'S EXHIBIT No. 3

I. C. C. Docket No. 18364

Witness: Potter

Comparison of Present Rates on Logs, C. L., to Valdosta, Ga., from Jasper, Fla., and Lake City, Fla., via G. S. & F. Ry., with Present Rates to Valdosta from same Points via A. C. L. R. R.; Also with Rates Sought by Complainant via A. C. L. R. R.

To Valdosta, Ga., from					
Jasper, Fla.....	Present:	Via G. S. & F.....	31 miles.....		4.5
		Via A. C. L.....	59 "		5.5
	Sought:	Via A. C. L.....	59 "		2.1

To Valdosta, Ga., from

Lake City, Fla.....	Present:	Via G. S. & F.....	60 miles.....		5.0
		Via A. C. L.....	129 "		8.5
	Sought:	Via A. C. L.....	129 "		3.2

G. S. & F. I. C. C. 866.
Glenn's I. C. C. A-415.

[fol. 332] INTERVENER'S EXHIBIT No. 4

I. C. C. Docket No. 18364

Witness: Potter

Comparison of the Intrastate Mileage Scale on Logs, C. L., Applicable Between Points in Florida on the A. C. L. R. R. with the Intrastate Rates Between Points on the G. S. & F. Ry. in Florida

	A. C. L. R. R. mileage rates in Florida (see Note 1)	G. S. & F. mileage rates in Florida (see Note 2)
5 miles and under.....	1.71	1.95
10 " " over 5.....	1.71	2.4
20 " " " 10.....	1.71	3.16
30 " " " 20.....	1.71	3.66
40 " " " 30.....	1.71	3.83
50 " " " 40.....	2.1	4.33
60 " " " 50.....	2.1	4.6
70 " " " 60.....	2.3	5.0
80 " " " 70.....	2.3	5.33
90 " " " 60.....	2.3	5.66
100 " " " 90.....	2.6	6.0
110 " " " 100.....	2.8	6.16
120 " " " 110.....	3.2	6.66
130 " " " 120.....	3.2	....
160 " " " 130.....	3.4	....
170 " " " 160.....	3.7	....

Note 1. Rates are applicable on Logs, C. L., except cedar, to be loaded and unloaded by owner and not to be unloaded on railroad right of way—Rates are published in cents per car of 50,000 lbs., excess in proportion, figures shown being the cents per 100 lbs. equivalent—A. C. L. R. R., I. C. C. B-2255.

Note 2. Rates are applicable on Logs, except cedar, C. L., and are published in cents per car 30,000 lbs. (Class P) the figures shown being the cents per 100 lbs. equivalent.

[fol. 333] INTERVENER'S EXHIBIT No. 5

I. C. C. Docket No. 18364

Witness: Potter

Comparison of Atlantic Coast Line Railroad Scale of Rates on Logs, Carload, Between Its Stations in Florida with Scale Applicable Intrastate in Georgia Between G. S. & F. Railway Stations

Miles	A. C. L. Florida intrastate scale (See Note No. 1)	G. S. & F. Georgia interstate scale (See Note No. 2)
5	1.71	3.1
7	1.71	3.1
10	1.71	3.5
12	1.71	3.5
15	1.71	4.2
17	1.71	4.2
20	1.71	4.4
22	1.71	4.4
25	1.71	4.8
27	1.71	4.8
30	1.71	5
32	1.71	5
35	1.71	5.4
37	1.71	5.4
40	1.71	5.6
42	2.1	5.6
45	2.1	5.8
50	2.1	5.8
52	2.1	5.8
55	2.1	6
57	2.1	6
60	2.1	6.7
62	2.3	6.7

Miles	A. C. L. Florida intra-state scale (See Note No. 1)	G. S. & F. Georgia inter-state scale (See Note No. 2)
65	2.3	6.9
67	2.3	6.9
70	2.3	7.1
72	2.3	7.1
75	2.3	7.3
77	2.3	7.3
80	2.3	7.7
82	2.3	7.7
85	2.3	7.9
87	2.3	7.9
90	2.3	8.1
92	2.6	8.1
95	2.6	8.5
97	2.6	8.5
100	2.6	8.9
110	3.2	9.2
120	3.2	9.4
130	3.2	9.6
160	3.4	10.6
170	3.7	10.8

[fol. 334] Note No. 1. Rates are applicable on logs, carload, except cedar, to be loaded and unloaded by owner and not to be unloaded on railroad right-of-way. Rates are published in cents per car of 50,000 pounds, excess in proportion, figures, shown being the cents per 100 equivalent A. C. L. R. R., I. C. C. B-2255.

Note No. 2. Logs, carload, minimum 24,000 Lbs. Rates are published in cents per car of 24,000 pounds, excess in proportion, figures shown being the cents per 100 equivalent. G. S. & F. Railway I. C. C. 869.

[fol. 335] INTERVENER'S EXHIBIT No. 6

I. C. C. Docket No. 18364

Witness: Potter

Comparison of A. C. L. Railroad Intrastate Mileage Scale Applicable on Logs, Carload, Between Points in Florida with Interstate Mileage Scale Applicable from G. S. & F. Railway Stations in Florida to G. S. & F. Railway Stations in Georgia

Miles	A. C. L. R. R. mileage rates in Florida (See Note No. 1)	G. S. & F. interstate scale from Florida stations to Valdosta, Ga. and from Georgia stations to Lake City, Fla. (See Note No. 2)
5 miles and under	1.71	3.5
7 miles and over 5	1.71	3.5
10	1.71	3.5
12	1.71	3.5
15	1.71	3.5
17	1.71	3.5
20	1.71	3.5
22	1.71	4
25	1.71	4
27	1.71	4
30	1.71	4
32	1.71	4.5
35	1.71	4.5
37	1.71	4.5
40	1.71	4.5
42	2.1	4.5
45	2.1	4.5
47	2.1	5
50	2.1	5
52	2.1	5
55	2.1	5
57	2.1	5

Miles	A. C. L. R. R. mileage rates in Florida (See Note No. 1)	G. S. & F. interstate scale from Florida stations to Valdosta, Ga. and from Georgia stations to Lake City, Fla. (See Note No. 2)
60	2.1	5
62	2.3	5.5
65	2.3	5.5
67	2.3	5.5
70	2.3	5.5
72	2.3	5.5
75	2.3	5.5
77	2.3	6
80	2.3	6
82	2.3	6
85	2.3	6
87	2.3	6
90	2.3	6
92	2.6	6
95	2.6	6
97	2.6	6.5
100	2.6	6.5
120	3.2	.
[fol. 336]		
130	3.2	.
160	3.4	.
170	3.7	.

Note No. 1. Rates are applicable on *h*ogs, carload, except cedar, to be loaded and unloaded by owner and not to be unloaded on railroad right-of-way. Rates are published in cents per car of 50,000 pounds, excess in proportion, figures shown being the cents per 100 equivalent. A. C. L. R. R. I. C. C. B-2255.

Note No. 2. Rates are published in cents per 100 pounds, applicable on logs (not hewn or sawn, not piling nor poles, and short-length blocks, round or split, carload minimum weight 40,000 pounds. G. S. & F. Ry. I. C. C. 866, Supplement 12.

[fol. 337] INTERVENER'S EXHIBIT No. 7

I. C. C. Docket No. 18364

Witness: Potter

Statement of Present Interstate Scales on Logs, Carload, Applicable from Points in Florida to Points in Georgia on the Atlantic Coast Line Railroad and on the G. S. & F. Railway; also Southern Railway Interstate Scale and Scale Sought by Complainant from A. C. L. Stations in Florida to A. C. L. Stations in Georgia.

(In Cents per 100 Pounds)

Miles	G. S. & F. interstate scale from Fla. stations to Valdosta, Ga. (See Note No. 1)	A. C. L. interstate scale from Florida stations to Valdosta, Ga. (See Note 2)	Rates sought by complainant from A.C.L. stations in Fla. to Valdosta, Ga. (See Note 3)	Southern Railway interstate scale (See Note 4)
5	3.5	2.5	1.71	2.5
7.	3.2	3	1.71	2.5
10	3.5	3	1.71	2.5
12	3.5	3.5	1.71	3.5
15	3.5	3.5	1.71	3.5
17	3.5	3.5	1.71	3.5
20	3.5	3.5	1.71	3.5
22	4	4	1.71	3.5
25	4	4	1.71	3.5
27	4	4	1.71	3.5
30	4	4	1.71	3.5
32	4.5	4.5	1.71	4
35	4.5	4.5	1.71	4
37	4.5	4.5	1.71	4
40	4.5	4.5	1.71	4
42	4.5	5	2.1	4.5
45	4.5	5	2.1	4.5
47	5	5	2.1	4.5
50	5	5	2.1	4.5
52	5	5.5	2.1	4.5
55	5	5.5	2.1	4.5
57	5	5.5	2.1	5
60	5	5.5	2.1	5
62	5.5	6	2.3	5
65	5.5	6	2.3	5
67	5.5	6	2.3	5
70	5.5	6	2.3	5
72	5.5	6.5	2.3	5.5
75	5.5	6.5	2.3	5.5
77	6	6.5	2.3	5.5
80	6	6.5	2.3	5.5
82	6	7	2.3	6
85	6	7	2.3	6

Miles	G. S. & F. interstate scale from Fla. stations to Valdosta, Ga. (See Note No. 1)	A. C. L. interstate scale from Florida stations to Valdosta, Ga. (See Note 2)	Rates sought by complainant from A.C.L. stations in Fla. to Valdosta, Ga. (See Note 3)	Southern Railway interstate scale (See Note 4)
87	6	7	2.3	6
90	6	7	2.3	6
[fol. 338]				
92	6	7	2.6	6.5
95	6	7	2.6	6.5
97	6.5	7	2.6	6.5
100	6.5	7	2.6	6.5
110	...	7.5	3.2	6.5
120	...	8	3.2	7
130	...	8.5	3.2	7
160	...	9	3.4	8
170	...	9.5	3.7	8.5

Note No. 1. Applicable on Logs, Carload (not hewn or sawn, not piling nor piles, and short leng*ht* blocks, round or split), minimum weight 40,000 pounds. G. S. & F. Railway I. C. C. 866—Supplement 12.

Note No. 2. Applicable on logs (except walnut, cherry and cedar logs) minimum weight 40,000 pounds. Glenn's I. C. C. A-415—Supplement 27.

Note No. 3. Applicable on logs, carload, except cedar, to be loaded and unloaded by owner and not to be unloaded on railroad right-of-way. Rates are published in cents per car of 50,000 pounds, excess in proportion, figures shown being the cents per 100 pounds equivalent—A. C. L. R. R. I. C. C. B-2255—Supplement 29.

Note No. 4. Applicable on logs, carload. Rates are published in cents per 100 pounds, carload minimum weight 40,000 pounds. Southern Railway I. C. C. A-9783.

[fol. 339]

INTERVENER'S EXHIBIT No. 8

I. C. C. Docket No. 18364

Witness: Potter

Comparison of Rates on Logs, Carload, Between Atlantic Coast Line Railroad Stations in Florida with Rates Between Stations on the Southern Railway in the Various States Shown

Miles	Logs, C. L. min. 50,000 pounds, applicable between A. C. L. stations in Fla. (See Note 1)	Logs, C. L. min. 24,000 pounds, applicable between Sou. Ry. stations in Ga. (See Note 2)		Logs, C. L. min. 40,000 pounds, applicable between Sou. Ry. stations in N. C. (See Note 3)	Logs, C. L. min. 24,000 pounds, applicable between Sou. Ry. station in S. C. (See Note 4)	Logs, C. L. min. 40,000 lb-., applicable between Sou. Ry. stations in Ala. (See Note 5)
		Pres.	Note 6			
5	1.71	3.1	2.5	1.8	2.4	2.5
7	1.71	3.1	3	1.8	2.9	2.5
10	1.71	3.5	3	1.8	2.9	2.5
12	1.71	3.5	3	1.8	3.5	3
15	1.71	4.2	3	2.1	3.5	3
17	1.71	4.2	3.5	2.1	3.8	3
20	1.71	4.4	3.5	2.1	3.8	3
22	1.71	4.4	3.5	2.1	3.8	3.5
25	1.71	4.8	3.5	2.6	3.8	3.5

Intervener's Exhibit No. 8—Continued

Miles	Logs, C. L. min. 50,000 pounds, applicable between A. C. L. stations in Fla. (See Note 1)	Logs, C. L. min. 24,000 pounds, applicable between Sou. Ry. stations in Ga. (See Note 2)		Logs, C. L. min. 40,000 pounds, applicable between Sou. Ry. stations in N. C. (See Note 3)	Logs, C. L. min. 24,000 pounds, applicable between Sou. Ry. station in S. C. (See Note 4)	Logs, C. L. min. 40,000 lb-., applicable between Sou. Ry. stations in Ala. (See Note 5)
		Pres.	Note 6			
27	1.71	4.8	4	2.6	4.3	3.5
30	1.71	5	4	2.6	4.3	3.5
32	1.71	5	4	2.6	4.5	4
35	1.71	5.4	4	2.9	4.5	4
37	1.71	5.4	4	2.9	4.6	4
40	1.71	5.6	4	2.9	4.6	4
42	2.1	5.6	4.5	2.9	5	4.5
45	2.1	5.8	4.5	3.3	5	4.5
47	2.1	5.8	4.5	3.3	5.4	4.5
50	2.1	5.8	4.5	3.3	5.4	4.5
52	2.1	5.8	4.5	3.3	5.4	4.5
55	2.1	6	4.5	3.5	5.4	4.5
57	2.1	6	5	3.5	5.4	5
60	2.1	6.7	5	3.5	5.4	5
62	2.3	6.7	5	3.5	5.4	5

65	2.3	6.9	5	4	5.4	5
67	2.3	6.9	5	4	5.7	5
70	2.3	7.1	5	4	5.7	5
72	2.3	7.1	5.5	4	5.8	5.5
75	2.3	7.3	5.5	4.3	5.8	5.5
77	2.3	7.3	5.5	4.3	5.8	5.5
80	2.3	7.7	5.5	4.3	4.8	5.5
82	2.3	7.7	5.5	4.3	6	5.5
85	2.3	7.9	5.5	4.6	6	5.5
87	2.3	7.9	6	4.6	6	6
90	2.3	8.1	6	4.6	6	6
92	2.6	8.1	6	4.6	6.2	6
95	2.6	8.5	6	5	6.2	6
97	2.6	8.5	6	5	6.2	6
100	2.6	8.9	6	5	6.2	6
[fol. 340]						
120	3.2	9.4	6.5	5.6	6.6	6.5
130	3.2	9.6	7	6.1	6.6	7
160	3.4	10.6	7.5	7.1	7.2	7.5
170	3.7	10.8	8	7.4	7.2	8

Note No. 1. Rates are published in cents per car of 50,000 pounds, excess in proportion, figures shown being the cents per 100 pounds equivalent. A. C. L. R. R. I. C. C. B-2255.

Note No. 2. Rates are published in cents per car of 24,000 pounds, excess in proportion, figures shown being the cents per 100 pounds equivalent. Sou. Ry. I. C. C. A-9879.

Note No. 3. Rates are published in cents per car of 40,000 pounds, excess in proportion, figures shown being the cents per 100 pounds equivalent. Sou. Ry. I. C. C. A-10031—Supplement 1.

Note No. 4. Rates are published in cents per car of 24,000 pounds, excess in proportion, figures shown being the cents per 100 pounds, equivalent. Sou. Ry. I. C. C. A-10027.

Note No. 5. Rates are published in cents per 100 pounds. Carload minimum weight 40,000 pounds. J. H. Glenn's I. C. C. A-504.

Note No. 6. Rates were issued in compliance with order of Ga. Railroad Commission, but now under suspension until January 1, 1927.

[fol. 341]

EXHIBIT No. 9

I. C. C. Docket No. 18364

Witness: J. A. Streyer

Single-line Mileage Scales of the Short or Weak Lines Shown Applying Intrastate in Florida, Intrastate in Georgia, and Interstate as Shown Hereon

Distance	A	B	C	D	E	F	G	H
5 Miles and under	1050	720	788	855	585	720	720	4½
7 " " over 5	1050	720	788	855	585	720	720	4½
10 " " " 7	1050	720	950	855	585	720	720	4½
12 " " " 10	1050	950	950	855	950	1050	1000	4½
17 " " " 12	1050	950	1050	1035	950	1050	1000	4½
20 " " " 17	1050	950	1200	1035	950	1050	1000	4½
22 " " " 20	1350	1100	1200	1035	1100	1150	1150	6
27 " " " 22	1350	1100	1250	1150	1100	1150	1150	6
30 " " " 27	1350	1100	1300	1150	1100	1150	1150	6
32 " " " 30	1500	1150	1300	1150	1150	1300	1250	7
37 " " " 32	1500	1150	1400	1300	1150	1300	1250	7
40 " " " 37	1500	1150	1450	1300	1150	1300	1250	7
42 " " " 40	1600	1300	1450	1300	1300	1400	1400	7
47 " " " 42	1600	1300	1600	1300	1300	1400	1400	7
50 " " " 47	1600	1300	1600	1600	1300	1400	1400	7

EXHIBIT No. 9—Continued

Distance					A	B	C	D	E	F	G	H
52 Miles and over				50	1750	1400	1600	1600	....	1600	....	..
57	"	"	"	52	1750	1400	1650	1600	....	1600	....	..
60	"	"	"	57	1750	1400	1700	1700	....	1600	....	..
62	"	"	"	60	1950	1500	1700	1700	....	....	....	..
67	"	"	"	62	1950	1500	1800	1700	....	....	....	..
70	"	"	"	67	1950	1500	1850	1850	....	....	....	..
72	"	"	"	70	2050	1600	1850	1850	....	....	....	..
77	"	"	"	72	2050	1600	1900	1850	....	....	....	..
80	"	"	"	77	2050	1600	2050	2000	....	....	....	..
82	"	"	"	80	2200	1700	2050	2000	....	....	....	..
87	"	"	"	82	2200	1700	2100	2000	....	....	....	..
90	"	"	"	87	2200	1700	2200	2000	....	....	....	..
92	"	"	"	90	2300	1800	2200	2000	....	....	....	..
97	"	"	"	92	2300	1800	2250	2000	....	....	....	..
100	"	"	"	97	2300	1800	2300	2150	....	....	....	..
110	"	"	"	100	2450	1850	2400	2150	....	....	....	..
120	"	"	"	110	2500	....	....	....	....	....	....	..
130	"	"	"	120	2500	....	....	....	....	....	....	..
140	"	"	"	130	2600	....	....	....	....	....	....	..
150	"	"	"	140	2700	....	....	....	....	....	....	..

NOTE.—For explanation of lettered colums, see Page 2.

A. Applicable interstate per car 40,000 pounds excess in proportion on line of Ga., Fla. and Ala. Ry., per I. C. C. No. 354.

B. Applicable intrastate in Florida per car 30,000 pounds excess in proportion over line of the Ga., Fla. and Ala. Ry., per I. C. C. No. 354, issued under protest in compliance with order No. 431 of Railroad Commission of Florida.

C. Applicable intrastate in Georgia per car 40,000 pounds excess in proportion on line of Ga., Fla. and Ala. Ry., per I. C. C. No. 354. This mileage scale of rates is generally applicable intrastate in Georgia on the short line railroad- known as Class "B" lines, and so classified by the Georgia Public Service Commission.

D. Applicable from Georgia and Florida stations on bolts or butts, heading, shingled or staved; to be manufactured and the products reshipped, destined to Valdosta, Ga., interstate, applying per car of 40,000 pounds excess in proportion, per G. & F. Ry. I. C. C. No. 499.

E. Applicable on line of Tavares & Gulf R. R. intrastate in Florida, applying per car of 30,000 pounds excess in proportion, per I. C. C. No. 11.

F. Applicable intrastate in Florida, applying per car of 30,000 pounds excess in proportion on line of Tampa and Jacksonville Ry. per I. C. C. No. 18, also Ala. & Western Fla. R. R. (formerly Birmingham, Columbus and St. Andrews Ry.), Florida Local Tariff No. 5.

G. Applicable on line of Marianna & Blountstown R. R. intrastate in Florida per I. C. C. No. 37, applying per car 30,000 pounds excess in proportion.

H. Applying interstate from Marianna & Blountstown R. R. stations per I. C. C. No. 37, applying per 100 pounds, carload minimum weight 30,000 pounds.

[fol. 343] Comparative Statement of Rates on Logs, Carloads, in Cents per cwt., Intrastate in South Carolina; Over Joint Hauls of Standard and Short or Weak Lines for the Respective Distances Over Each, with the Joint-Haul Scale as Prescribed by Georgia Public Service Commission for Joint-Haul Application on Standard and Short or Weak Lines Intrastate in Georgia, in Docket 15416, April 15, 1925, suspended and cancelled September 28, 1926.

	† Short or weak line miles					
* Standard line miles	10 Miles	@	20 Miles	@	25 Miles	@
50 Miles	7.49	6.5	8.24	6.5	8.62	7
75 Miles	7.91	7	8.66	7.5	9,04	7.5
100 Miles	8.21	7.5	8.96	7.5	9.34	8
120 Miles	8.58	8	9.33	8	9.71	8.5
140 Miles	8.71	8.5	9.46	8.5	9.84	9
150 Miles	8.71	8.5	9.46	9	9.84	9
170 Miles	9.01	9	9.75	9.5	10.14	9.5
200 Miles	9.38	10	10.13	10	10.51	10.5

	† Short or weak line miles					
* Standard line miles	30 Miles	@	40 Miles	@	50 Miles	@
50 Miles	8.62	7	9.24	7.5	9.74	7.5
75 Miles	9.24	7.5	9.66	7.5	10.16	8
100 Miles	9.34	8	9.96	8	10.46	8.5
120 Miles	9.71	8.5	10.33	8.5	10.83	9
140 Miles	9.84	9	10.46	9	10.96	9.5
150 Miles	9.84	9	10.46	9.5	10.96	9.5
170 Miles	10.14	9.5	10.76	10	11.26	10
200 Miles	10.51	10.5	11.13	10.5	11.63	10.5

@—Georgia Public Service Commission's ordered scale for combined distance of standard and short or weak lines.

*—Standard lines rate for distance shown lumber rate less 20% pages 156 and 157 of 46th Annual report of the Railroad Commission of South Carolina also less 20% account used in making joint rates.

†—Short or weak line rates for distance shown per Supt. No. 13 Northwestern Railroad of South Carolina I. C. C. No. 38 and not subject to deduction of 20% in making joint rates.

[fol. 344] Comparative Statement of Rates on Logs, Carloads, in Cents per cwt., Intrastate in South Carolina and Single Line Scales of Rates Prescribed by Georgia Public Service Commission for Single Line Hauls Over Trunk Lines and Over Short or Weak Lines in Georgia, in Docket 15416, April 15, 1925, Suspended and Ordered Cancelled Sept. 28, 1926.

Miles	@A	B	¢C	D	Miles	@A	B
5.....	2.4	2.5	3.25	3.5	90	6	6
7.....	2.85	3	3.25	4	95	6.2	6
10.....	2.85	3	3.25	4	100	6.2	6
12.....	3	3	4	4	105	6.5	6.5
15.....	3	3	4	4	110	6.5	6.5
17.....	3.3	3.5	4	4	115	6.66	6.5
20.....	3.3	3.5	4	4.5	120	6.66	6.5
25.....	3.3	3.5	4.25	4.5	125	6.66	7
30.....	4.3	4	4.25	5	130	6.66	7
35.....	4.5	4	5	5	135	6.83	7
40.....	4.66	4	5	5	140	6.83	7
45.....	5	4.5	5.5	5.5	145	6.83	7.5
50.....	5.3	4.5	5.5	5.5	150	6.83	7.5
55.....	5.3	5	5.63	6	160	7.2	8
60.....	5.3	5	5.63	6	170	7.2	8
65.....	5.3	5	5.75	6	180	7.3	8
70.....	5.66	5	5.75	6	190	7.46	8.5
75.....	5.83	5.5	5.75	6.5	200	7.66	8.5
80.....	5.83	5.5	5.75	6.5	210	7.66	9
85.....	6	6	....	....	220	8	9

A. Single line haul over trunk line in South Carolina, per 46th annual report of South Carolina Commission for year 1924.

B. Rates for single line application over trunk lines prescribed by Georgia Public Service Commission.

C. Single line haul over N. W. R. R. of S. C. (a short line) in South Carolina per Supt. 13 to their I. C. C. No. 38.

D. Rates for single line application over short and weak lines in Georgia, prescribed by Georgia Public Service Commission.

@. Carload minimum Weight 24,000 pounds.

¢. Carload minimum Weight 30,000 pounds.

[fol. 345] Page No. 5

Statement of Number of Cars, Logs, Billets, and Bolts, Revenue Receiver, per Diem and Switching Reclaim Paid, and Percentage of this Expense to Total Revenue by Thirteen Important Lines in Georgia for Period January Through May, 1925, Representing Five Months

Line	No. of cars	Revenue	Per diem	Switching and reclaim	Per diem switching & reclaim percentage of total revenue
Macon, Dublin & Savannah R. R.	260	4,505.69	638.00	1,359.50	44.3
Savannah & Atlanta Ry...	206	3,159.14	828.00	Not shown	26.2
Georgia & Florida Railway	1,126	23,032.54	5,810.00	1,943.97	33.6
Wadley Southern Railway..	81	1,281.09	408.00	.....	31.85
Louisville & Wadley R. R..	223	2,582.43	363.00	.....	14
Gainesville & Northwestern	19	350.00	79.00	.....	22.8
Savannah & Statesboro R.R.	54	610.26	112.00	.....	18.3
Sandersville Railroad.....	49	500.56	103.00	.....	20.6
Greene County Railroad...	42	366.27	65.00	.....	17.76
Wrightsville & Tennille R. R.....	190	2,995.56	663.00	.....	22.1
Georgia, Fla. & Ala. Ry....	173	2,008.55	672.00	.....	33.46
Flint River & Northeastern.	11	157.77	80.00	.....	51
Georgia Northern Railway.	20	273.51	99.00	.....	36
Totals	2,454	41,823.17	9,920.00	3,303.47	36.6%
Average revenue per car.....					$17.05
Average per diem, reclaim and switching per car.....					5.39
Average revenue less per diem, reclaim and switching per car..					$11.66

(Here follows map, side folio 346)

MAP IS TOO LARGE TO BE FILMED.

[fol. 347]

EXHIBIT No. 11

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Showing Rates of Atlantic Coast Line Railroad on Logs, C. L., Interstate and Intrastate to and from Stations in Florida. Rates Applicable per Carload are Converted to Basis of per 100 Lbs.

In Cents per 100 Lbs.

Miles	North Florida interstate logs, tariff description A	South Florida interstate logs, tariff description B	Florida intrastate short logs, tariff description C	Florida intrastate logs, NOS tariff description D
5	2.5	....	2.13	1.71
10	3	....	2.13	1.71
15	3.5	....	2.37	1.71
20	3.5	....	2.37	1.71
25	4	....	2.75	1.71
30	4	....	2.75	1.71
35	4.5	....	2.87	1.71
40	4.5	....	2.87	1.71
45	5	....	3.25	2.10
50	5	7.10	3.25	2.10
55	5.5	7.70	3.50	2.10
60	5.5	7.70	3.50	2.10
65	6	8.30	3 75	2.30
70	6	8.30	3.75	2.30
75	6.5	8.30	4	2.30
80	6.5	8.30	4	2.30
85	7	8.30	4.25	2.30
90	7	8.30	4.25	2.30
95	7	8.50	4.50	2.60
100	7	8.96	4.50	2.60
110	7.5	9.17	5	2.80
120	8	9.37	5	3.20
130	8.5	9.58	5.12	3.20
140	8.5	10.20	5.12	3.40
150	9	10.40	5.50	3.40

Miles	North Florida interstate logs, tariff description A	South Florida interstate logs, tariff description B	Florida intra-state short logs, tariff description C	Florida intra-state logs, NOS tariff description D
160	9	10.40	5.75	3.40
170	9.5	10.80	6.25	3.70
180	9.5	11.30	6.25	8.33
190	10	11.50	6.25	8.33
200	10	12.30	6.25	8.33
210	10.5	12.30	6.50	8.67
220	10.5	12.30	6.50	8.67
230	11	12.30	6.75	9
240	11	12.90	6.75	9
250	11.5	12.90	6.87	9.17
260	11.5	12.90	6.87	9.17
270	11.5	13.80	7.12	9.50
280	11.5	13.80	7.12	9.50
290	12	14.20	7.25	9.67
300	12	14.20	7.37	9.83
310	12.5	14.20	7.37	9.83
320	12.5	14.20	7.37	9.83
330	13	14.80	7.62	10.20
340	13	14.80	7.75	10.30
350	13.5	14.80	7.87	10.50
360	13.5	14.80	7.87	10.50
370	14	15.20	8	10.70
380	14	16	8.25	11
390	14.5	16.50	8.37	11.20
400	14.5	17.10	8.37	11.20
410	15	17.70	....	....
420	15	18.30	....	....
430	15.5	18.80	....	....
440	15.5	19.60	....	....
450	16	19.80	....	....
460	16	19.60	....	....
470	16.5	19.80	....	....

Miles	North Florida interstate logs, tariff description A	South Florida interstate logs, tariff description B	Florida intrastate short logs, tariff description C	Florida intrastate logs, NOS tariff description D
480	16.5	19.80	....	....
490	17	19.80	....	....
500	17	19.80	....	....
510	17.5	19.80	....	....
520	17.5	19.80	....	....
530	18	21.30	....	....
540	18	21.30	....	....

A—A. C. L. R. R. interstate scale applicable on Logs (except walnut, cherry and cedar), carloads, minimum weight 40,000 lbs.—Agt. J. H. Glenn's I. C. C. No. A-415, applicable interstate south of Charleston, S. C., and north of Jacksonville, Gainesville, Burnetts Lake and High Springs, Fla.

B—A. C. L. R. R. interstate scale applicable on Logs, all kinds (except mahogany, cedar, cherry and walnut), C. L., minimum weight 30,000 lbs., Class "P" rates per 24,000 pounds, applicable between stations in Florida south of Jacksonville, Gainesville, Burnetts Lake and High Springs on the one hand, and, on the other hand, stations in South Carolina south of Charleston, Georgia and Alabama—A. C. L. R. R., I. C. C. No. B-2103, with Notes A and 8 exceptions to Southern Classification, E. H. Dulaney's I. C. C. No. 20.

C—Florida intrastate rates (fixed by Florida Commission) applicable on Logs, viz: ash, gum, hickory, oak, pine and cypress, not over six (6) feet in length, per car 40,000 pounds, excess in proportion. (Class "P.")

D—Florida intrastate rates applicable on Logs, except cedar, subject to the following: 170 miles and under, per car of 50,000 lbs., excess in proportion, to be loaded and unloaded by owner and not to be unloaded on the railroad's right of way; over 170 miles (fixed by Florida Commission), C. L. minimum weight 30,000. (Class "P.")

Wilmington, N. C., Sept. 25, 1926-W.

[fol. 348] EXHIBIT No. 12

I. C. C. Docket 18364

Witness: Perrin

(Copy)

This agreement made the 29th day of June, in the year one thousand nine hundred and three, between the Jacksonville and Southwestern Railroad Company, party of the first part and the Cummer Lumber Company, party of the second part,

Witnesseth:

Whereas, the parties of the first part and second parts in conjunction with Wellington W. Cummer and Charles W. Chase have entered into an agreement bearing even date herewith for the sale to the said Charles W. Chase of the stock of the party hereto of the first part and for other purposes.

Now, therefore, in consideration of the premises and of the covenents and undertakings expressed in said agreement and of the sum of One Dollar to each of the parties hereto in hand paid by the other,

It is agreed:

First. The party of the first part shall transport over its line of railway all freights consigned to it by the party of the second part for the period of fifteen years from the date of this agreement at the following rates:

Logs

Logs, per car of 50,000 lbs., minimum, for a distance of forty (40) miles or less	$6.00 per car.
For a distance sixty miles and over forty (40) miles	7.00 per car.
For a distance under ninety (90) miles and over sixty miles	8.00 per car.
For each additional ten (10) miles and over ninety (90) miles an additional charge of	1.00 per car.

Provided the rate from the Suwannee River to Milldale shall not exceed ten dollars ($10.00) per car.

Wood

Wood in carload lots of 40,000 lbs., minimum for a distance of twenty (20) miles and under $6.00
For distances under forty (40) miles and over twenty (20) miles 7.00
For distances under ninety (90) miles and over forty (40) miles 9.00
For distances under one hundred and ten (110) miles and over ninety (90) miles 10.00

Provided that the rate shall not exceed ten dollars ($10.00) per car from the Suwannee River to Milldale.

For all wood for Jacksonville delivery, there shall be added the actual terminal charges per ton to the above rates.

[fol. 349]

Phosphates

The party of the second part shall be given as low a net rate on phosphates as may be given to any other shipper or shippers, directly or indirectly, and the rate charged by the party of the first part on phosphate shipments shall not be higher than that charged shippers from the same territory by other railway lines. If such rates on phosphates are not given, the party of the second part shall not be required to deliver phosphates to the party of the first part for shipment; but the failure of the party of the second part to deliver phosphate to the party of the first part for shipment, under such circumstances, shall not in any way affect the terms and conditions of this agreement as to the transportation of other freights consigned to the party of the first part.

Second. The party of the first part further agrees to furnish annually transportation over its lines of railway for a period of fifteen years for not to exceed ten persons who are officers and superintendents of the party of the second part. But it is understood that the persons so transported shall, by accepting such transportation, absolve the party of the first part from all liability for damages to their persons or their property incurred during such transportation.

In witness whereof the parties hereto have caused these presents to be signed by their respective presidents or vice-

presidents and their corporate seals to be hereto affixed in duplicate, the day and year first above written.

Jacksonville & Southwestern Railroad Company, by Wellington W. Cummer, President. Attest: Arthur G. Cummer, Secretary. (Seal.) Cummer Lumber Company, by Wellington W. Cummer, Vice-President. Attest: Waldo E. Cummer, Asst. Secretary. (Seal.)

STATE OF NEW YORK,
County of New York, ss:

I, Edwin F. Corey, a Commissioner of Deeds for the State of Florida, residing in the aforesaid State and County, and duly commissioned, do hereby certify that on this day personally appeared before me Wellington W. Cummer and Arthur G. Cummer, known to me, who severally acknowledged before me that they are respectively the President and Secretary of the Jacksonville and Southeastern Railroad Company, and that the seal attached to said instrument is the corporate seal of said Railroad Company, and they executed said instrument in the name of said Company and as its act and deed, and for the uses and purposes therein contained and expressed.

[fol. 350] And I do hereby further certify that on this day personally appeared before me Wellington W. Cummer and Waldo E. Cummer, known to me, and severally acknowledged before me that they are the Vice-President and Assistant Secretary respectively of the Cummer Lumber Company, one of the parties to the foregoing agreement, and that the seal thereto affixed is the corporate seal of the said Cummer Lumber Company, and that as such Vice-President and Assistant Secretary they executed the said agreement for and on behalf of said Company, and for the uses and purposes therein contained.

In witness whereof I have hereunto set my hand and affixed my official seal in the City of New York, State of New York, on this 29th day of June, A. D., 1903.

Edwin F. Corey, Commissioner for the State of Florida.

Valdosta, Ga., October 21, 1926-h.

[fol. 351] Docket 18364

In the Commission's Docket file there are two exhibits marked No. 12. The first is a set of three sheets and is wrong, there being contained in the three, sheet 1 and two copies of sheet 3.

The second set marked Exhibit 12 is apparently O. K.

August Gutheim.

[fol. 352] EXHIBIT No. 13

I. C. C. Docket No. 18364

Witness: J. W. Perrin

This contract, made and entered into this 26th day of January, A. D., 1914, by and between the Carpenter-O'Brien Company, a corporation under the laws of the State of Delaware, hereinafter for convenience referred to throughout this contract as the Lumber Company, party of the first part, and Atlantic Coast Line Railroad Company, a corporation under the laws of the State of Virginia, hereinafter for convenience referred to and called the Railroad Company, party of the second part:

Whereas the Lumber Company owns about One Billion (1,000,000,000) feet of pine timber in the counties of LaFayette and Taylor, State of Florida, which said timber is located largely tributary to the line of the Railroad Company, known as its Perry Branch, said track being located between Newberry and Perry, Florida, which said timber the said Lumber Company proposes to cut into logs, and desires the Railroad Company thereafter to transport the logs cut therefrom, from certain side tracks hereinafter mentioned, to be built and constructed by the Railroad Company, over its line to the Cedar Creek plant of the Lumber Company, located on or near the line of Railroad near Jacksonville, Florida, and to that end desires to make a contract with the said Railroad Company for the transportation of said logs as aforesaid; and

Whereas the Lumber Company proposes to build spur tracks into the woods from points on the Perry Branch to be designated by the Lumber Company as may suit their convenience between Clara and Perry, Florida, and desires

the right to connect said spur tracks with the sidetracks to be built by the Railroad Company at said points as hereinafter set forth, to the end that cars from the Railroad Company may be carried by the Lumber Company into the woods for loading, and thereafter returned and delivered to the said Railroad Company on the sidings to be constructed as aforesaid; and

Whereas the said Railroad Company and the Lumber Company have agreed upon the terms hereinafter set forth;

Now, therefore, this agreement witnesseth: That for and in consideration of the covenants and agreements hereinafter set forth and contained, to be mutually kept and performed, and the further consideration of the sum of One Dollar ($1.00) by each of the parties hereto to the other paid, the receipt of which is hereby acknowledged, the said parties do hereby mutually covenant each with the other, to-wit:

First. The Railroad Company, for its part, covenants and agrees that it will, at its own cost and expense, construct and thereafter maintain a side track or tracks of sufficient length to accomplish the convenient storage and interchange of loaded and empty cars as shall be designated by the Lumber Company. The Railroad Company further agrees that it will, from time to time as the necessities of the Lumber Company may require, take up and move any of the said sidings from the point where it was originally located to such other points as shall be designated by the Lumber Company as necessary for its purpose. The Railroad Company further agrees that it will construct and maintain at its own cost and expense, the necessary switches at such points on said siding as shall be designated by the Railroad Company, and will extend the rails leading from said switch to the edge of its right of way, and will thereafter permit the Lumber Company, at its own cost and expense, to connect with said rails the rails of its spur track by placing cars upon said side track to be built by the Railroad Company as aforesaid. It is agreed, however, that if in the construction of said track, the Railroad Company finds it necessary to use or occupy land belonging to other parties, that the Railroad Company will, and it hereby agrees to obtain and furnish to the Railroad Company, the

necessary rights of way, for the construction, maintenance and operation thereof.

Second. The Railroad Company further agrees that it will furnish for the service contemplated by this contract a sufficient number of cars, to enable the Lumber Company to load and ship a minimum of thirty (30) cars per day, or sixty (60) cars every other day (except Sundays and Legal Holidays) during the life of this agreement, and that it will furnish, in addition to said cars, an engine and necessary crew to move same; and that it will deliver said cars upon said side track at the rate of thirty (30) cars per day, or sixty (60) cars every alternate day (except Sundays and Legal Holidays) as the Lumber Company shall elect and from time to time designate. The Railroad Company further agrees that when said cars shall have been placed by it upon the side track aforesaid, the Lumber Company shall have, and is hereby granted the right to take the same and move them under its own power, and manned by its own crews, on the spur track and into the woods for loading, to be returned by said Lumber Company to said side track, under full load as hereinafter set forth, within forty-eight (48) hours (except Sundays and Legal Holidays) from the time the same shall have been delivered by the Railroad Company to it on the side track as aforesaid. Upon return of said cars under load with logs as aforesaid, the Railroad Company agrees that it will accept delivery of the train made up of said cars on said side track, and that it will move the said train from said side track over its lines to the plant of the Lumber Company at Cedar Creek, near Jacksonville, Florida, at the rate of thirty (30) cars per day, or sixty (60) cars every alternate day (Sundays and Legal Holidays excepted) as the Lumber Company shall elect, and from time to time designate. Upon arrival at the plant of the said Lumber Company at Cedar Creek, the Railroad Company agrees that it will place said train into a track or tracks to be furnished by the Lumber Company, at its plant aforesaid, for unloading by the Lumber Company, and will accept re-delivery of said train from said plant after the same shall have been unloaded, at a period of not later than forty-eight (48) hours after delivery (except Sundays and Legal Holidays) to the Lumber Company at said plant; said cars, after unloading, to be returned by

the Railroad Company to the side track aforesaid for delivery to the Lumber Company, and loadings in the woods, as hereinbefore set forth.

It is mutually agreed between the parties hereto: That the unloading of said cars at the Cedar Creek plant of the Lumber Company shall be done with such reasonable dispatch as will permit the Railroad Company to fulfill its schedule requiring the return of said cars to the sidings in use by the Lumber Company on the Perry Branch, in accordance with the schedule established by the Railroad Company, in order to carry out the movement of logs as hereinbefore set forth and agreed upon.

Third. The Railroad Company further agrees that it will publish, post and file as required by law, and will charge the Lumber Company thereunder, a tariff, fixing a rate for the transportation of logs from points between Clara and Perry, Florida, inclusive to Cedar Creek, Florida, at a rate [fol. 353] of Twelve Dollars ($12.00) per car of Fifty Thousand pounds (50,000) minimum, excess in proportion, said rate to apply in train load lots on a minimum of thirty (30) cars per train, and to be applicable per car per train. The Railroad Company further agrees that its tariffs shall provide that the rate hereinbefore named shall apply also upon round poles, eight feet, or more, in length, on a minimum per car of Fifty Thousand (50,000) pounds, excess in proportion, from the points hereinbefore named to the destination named, to-wit: Cedar Creek, Florida.

In consideration of the premises, the Lumber Company agrees:

Fourth. That it will, at its own cost and expense, construct and thereafter maintain a single track, wood spur, to be connected with the side tracks to be built by the Railroad Company at the points named as aforesaid, and leading from thence into the timber of the Lumber Company, and that it will take said cars when placed by the Railroad Company on said side track, for loading as aforesaid, and will move the same into the woods over its spur track, under its own power, and in charge of its own crews, and will, at its own risk, cost and expense, load the logs out as aforesaid upon said cars, and will thereafter within forty-eight (48) hours (except Sundays and Legal Holidays) after the train shall have been delivered to it as aforesaid, return the

same and redeliver it to the Railroad Company upon the side track constructed as aforesaid by the Railroad Company, for movement by the Railroad Company from said side track to the plant at Cedar Creek, Florida, as aforesaid. The Lumber Company further agrees that when said spur track is completed, it will equip and maintain the same in proper condition for the safe operation of cars thereover, and that it will provide the necessary engines, enginemen and crew for the purpose of moving said cars into the woods and return of the same to the siding as aforesaid. The Lumber Company further agrees that it will, at its own cost and expense, construct and maintain in proper condition at its plant at Cedar Creek, Florida, a track or tracks, to be connected with the tracks of the Railroad Company, for the purpose of receiving said trains when they shall be moved to the said plant by the Railroad Company, for unloading as aforesaid, and that said track or tracks for the delivery and unloading of said logs shall be maintained in condition to permit of the safe operation of the same by cars, loaded with logs, as aforesaid, at the cost and expense of the Lumber Company. The Lumber Company further agrees that the loading of said trains shall be done in accordance with the rules and regulations in effect on the Railroad Company at the time, and that none of the said cars shall be loaded in excess of its full carrying capacity, as indicated by the marks on said cars.

Upon delivery of the said train to the Lumber Company at its plant at Cedar Creek, Florida, the Lumber Company agrees that it will promptly, and with reasonable dispatch, unload the same, and will redeliver the said cars to the Railroad Company at its said mill not later than forty-eight (48) hours (except Sundays and Legal Holidays) after the same shall have been placed for delivery by the Railroad Company, under load, to the end that the said cars may be returned to the wood- siding in time to enable the Railroad Company to carry out the schedule which shall be fixed and agreed upon as contemplated in this contract.

Fifth. The Lumber Company further agrees that it will pay to the Railroad Company for transporting said logs as aforesaid from said sidings between Clara and Perry, Fla., inclusive, to the plant of the Lumber Company at Cedar Creek, Florida, at the rate to be published and filed by the

Railroad Company as aforesaid, to-wit: Twelve Dollars ($12.00) per car of Fifty Thousand (50,000) pounds minimum, excess in proportion, applicable per car per train, in train-load lots of thirty cars minimum. It is expressly understood and agreed by and between the parties hereto: That the minimum aforesaid is necessary in order to justify the establishment of the rates hereinbefore agreed upon, to be fixed, published and filed as aforesaid, and that the said minimum is to apply throughout the entire cut of logs of the Lumber Company as aforesaid.

Sixth. The Lumber Company further agrees that it will, and it hereby does assume responsibility for the care and condition of the cars of the Railroad Company, aforesaid, while the said cars are in the possession of the Lumber Company on the spur tracks built into the woods as aforesaid, from the sidings between Clara and Perry, Florida, inclusive, as the case may be, and also while such cars are in possession of the Lumber Company at its plant at Cedar Creek, Florida, and the Lumber Company hereby covenants and agrees that it will pay to the Railroad Company the amount of any injury, loss or damage to said cars while in its possession as aforesaid.

Seventh. The Lumber Company further agrees that it will promptly pay to the Railroad Company all freight and demurrage charges due for the movement of said logs, or to the detention of its cars whereon the same are loaded. The Lumber Company further agrees that it will pay to the said Railroad Company demurrage charges fixed by the Demurrage Rules in effect in the State of Florida, at the time, upon the line of the Railroad Company. For the purpose of computing demurrage, it is hereby agreed that the cars shall be deemed to have been placed for loading when the same are delivered by the Railroad Company upon the sidings to be constructed between Clara and Perry, Florida, inclusive, as the case may be, and when the same shall have been placed upon the tracks of the Lumber Company at Cedar Creek, Florida, for unloading. It is further agreed that if the Lumber Company shall fail, after the expiration of said period, to unload said cars at the points aforesaid, then the Railroad Company shall have, and is hereby given the right to enter upon the property of the Lumber Company, for the purpose of unloading same, the cost and ex-

pense of such unloading to be borne by the said Lumber Company, and it, the said Lumber Company, hereby agrees to pay the said Railroad Company such cost upon demand.

Eighth. The said Lumber Company further agrees that it will ship over the lines of the Railroad Company, and its connections, such portions of the product manufactured by it from the logs hauled to its mill at Cedar Creek, Florida, as aforesaid, as shall move by rail shipments, Provided, that the service is equal to and the rates over the Railroad and its connections, are as low as the lowest lawful rates in effect over other railroad lines operating between Cedar Creek, Florida, and the destinations of the manufactured product to be shipped as aforesaid.

Ninth. It is mutually covenanted and agreed by and between the parties hereto: That if, at any time during the continuance of this contract, the mill of the Lumber Company at Cedar Creek, Florida, shall be damaged or destroyed by fire, or otherwise, or if any accident shall happen to the machinery of the same, so that the Lumber Company shall be forced to shut down the same for repairs, or in the event of a strike on the part of the employees of the Railroad Company, or in the event that either the Railroad Company or the Lumber Company, for any unavoidable cause, shall be temporarily prevented from performing its part of this contract, then such party may give reasonable notice to the other party, requiring as of its right, the temporary suspension of the provisions of this contract, for a definite and reasonable period to be named in such notice, and thereupon, the provisions of this contract shall be temporarily suspended for the period named in such notice: Provided, however, that such suspension shall not, in any event, exceed six months, at any one time.

Tenth. It is further mutually covenanted and agreed: That the Lumber Company may, and is hereby granted the [fol. 354] option of increasing the rate of their shipments of pine logs up to ninety (90) cars per day; Provided, however, that in the event the Lumber Company desires to make this increase, the Railroad Company is to be given and allowed a reasonable time to secure by purchase, or by having built, a sufficient number of cars to enable it to comply with the requirements of the Lumber Company as aforesaid.

Eleventh. It is further mutually covenanted and agreed by and between the parties hereto, that this contract is made pursuant and subject to all of the laws of the United States and *to* the State of Florida, and that any change, amendment, alteration, or cancellation hereof, deemed, required or rendered necessary by any law of the United States, or the State of Florida, or by virtue of the judgment of any order of Court or Commission of competent jurisdiction, shall not be deemed a breach of the terms and conditions of this agreement.

Twelfth. It is further mutually covenanted and agreed, that this contract shall take effect and become operative as of, and on the 26th day of January A. D., 1914, and shall continue in force and effect thereafter for such time as is necessary to move the complete cut of timber hereinbefore specified, to-wit: approximately One Billion (1,000,000,000) feet, from the points hereinbefore designated to the plant of the Lumber Company at Cedar Creek, Florida, at the rate of movement hereinbefore specified. It is mutually agreed, however, That the Atlantic Coast Line Railroad Company is to be given reasonable time to secure and furnish necessary equipment, and to build and complete the spur track from its present line leading to Milldale, Florida to the Cedar Creek plant of the Lumber Company, aforesaid, which said spur track the Railroad Company hereby agrees that it will build with all reasonable dispatch. The Lumber Company agrees, that for the purpose of building and operating the spur track aforesaid, that it will grant to the Railroad Company right of way across the lands of the Lumber Company located in the course of said spur to its mill.

In witness whereof the parties hereto have caused this agreement to be executed, in duplicate, by their respective Presidents or Vice-Presidents, and their corporate seal to be hereto affixed, attested by their Secretaries or Assistant Secretaries, the day and the year first above written.

Atlantic Coast Line Railroad Company, by (S.) R. A. Brand, Fourth Vice-President. Attest: (S.) Lyman Delano, Asst. Secretary. (Seal.) Carpenter-O'Brien Company, by (S.) S. J. Carpenter, President. Attest: (S.) R. V. Paul, Secretary. (Seal.)

Wilmington, N. C., Sept. 24, 1926-W.

[fol. 355] EXHIBIT No. 14

I. C. C. Docket No. 18364

Witness: Perrin

Chronological Statement of Rates, in Cents per Car, 50,000 Pounds, Excess in Proportion, on Logs, Except Cedar Logs, Between Points on Atlantic Coast Line Railroad in Florida

Miles					1	2	3	4	5	6
40	Miles	and	under	.....	600	750	750	950	855	855
60	"	"	over	40.....	700	900	900	1150	1050	1050
90	"	"	"	60.....	800	1000	1000	1250	1150	1150
100	"	"	"	90.....	900	1150	1150	1450	1300	1300
110	"	"	"	100.....	1000	1250	1250	1550	1400	1400
130	"	"	"	110.....	1100	1400	1400	1750	1600	1600
160	"	"	"	130.....	1200	1500	1500	1900	1700	1700
170	"	"	"	160.....	....	....	1650	2050	1850	1850

Explanation of References

1. Rates as of June 24, 1918, A. C. L. R. R. Freight Tariff No. 4135.

2. 25% increase authorized under General Order 28, U. S. Railroad Administration, effective June 25, 1918.

3. Extension of scale to 170 miles—Effective April 30, 1919 in A. C. L. R. R. I. C. C. No. B-893.

4. 25% increase authorized under Ex Parte 74, effective August 26, 1920.

5. General 10% reduction effective July 1, 1922.

6. Present—A. C. L. R. R. I. C. C. B-2255.
Wilmington, N. C., October 18, 1926-h

[fol. 356] EXHIBIT No. 15

I. C. C. Docket No. 18364

Witness: J. W. Perrin

RAILROAD COMMISSION STATE OF FLORIDA, Tallahassee, Oct. 9, 1914

File #3685

Subject: Logs, Rates to Milldale, Fla.

Mr. Jas. Menzies, F. T. M., Atlantic Coast Line R. R., Wilmington, N. C.

DEAR SIR: This office is in receipt of your Freight Tariff No. 3339, effective October 3, 1914, carrying rates on logs, C. L. between stations on the Atlantic Coast Line R. R. up to a distance of 150 miles, which tariff cancels your No. 3282, which carried rates on logs in trainloads of 28 cars.

I am directed by the Commissioners to call your attention to the paragraph in this tariff which reads:

"When two or more cars are shipped from one station in one day by one shipper for delivery to one consignee at one destination these rates will be charged for an average carload weight of 50,000 pounds per car; excess of the average weight of 50,000 pounds per car will be charged for pro rata."

The Commissioners wish to say that they will not approve this tariff with the above paragraph incorporated therein, and will expect that you immediately re-publish the tariff with this paragraph eliminated.

When this is done, Freight Tariff No. 3339 will comply with the ideas of the Commissioners, in that the rates are stated per carload, and that they apply between all stations up to the given distance of 150 miles. The Commissioners wish it distinctly understood that this approval extends only to the method of stating the rates in this tariff and not to the rates themselves, and that in their opinion they are too low.

The rates carried in this tariff are such as might be deemed confiscatory, and there is little doubt in the minds

of the Commissioners if they were to order such a scale of rates that your company would contend that they amounted to confiscation and the taking of your property without due process of law.

To make such a scale of rates for the movement of logs in this State reduces the power of the Atlantic Coast Line R. R. Company to make other just and reasonable rates to be charged on all classes of freights that the public may be interested in. It also reduces the power of this Commission upon complaint and hearing hereafter to prescribe what might be just and reasonable rates to be charged for other freights when the entire revenues of the Atlantic Coast Line Railroad Company are to be taken into consideration. They amount practically to a discrimination against other classes of freight and all other people engaged in different lines of business.

You will recall that at the conference in Tallahassee on the 14th of July when the matter of withdrawing your log rates to Milldale, Fla., was under discussion the Commissioners advised you that they thought you should supplant the Milldale rates with your present rates on logs as they are being applied to other points in this State, which advice was based on the conviction that your log rates to Milldale were entirely too low.

The Commissioners regret that you have seen fit to publish these extremely low rates. There is no question but that the time will come when these barely remunerative rates will be used as the basis for opposition to the reduction of other rates, where perhaps a reduction might not only be justifiable but necessary, and therefore the Commissioners wish to impress upon you the fact that the low rates carried in your Freight Tariff #3339 were not only not ordered into effect or suggested by them, but were published by you in direct opposition to their advice and suggestions.

Yours very truly, (S.) J. H. Tench, Rate Expert.

Wilmington, N. C., October 8, 1926-W.

[fol. 357] EXHIBIT No. 16

I. C. C. Docket No. 18364

Witness: J. W. Perrin

(Copy)

Railroad Commission, State of Florida

Tallahassee, Fla., August 18, 1915.

Mr. E. C. McLeod, Kendrick, Fla.

DEAR SIR: Replying to your letter of Aug. 17th, with reference to the present rate on logs, carload, applicable between stations on the Atlantic Coast Line R. R., for a distance of 150 miles and under.

Beg to advise that the Commissioners thoroughly agree with you that this rate is too low. It was not made by the Commission nor was it put into effect with our approval. On the contrary, it was made effective contrary to the advice and wishes of the Commission. However, in order that you may become familiar with the situation, it will be necessary for me to go into the history of this rate at some length.

In April 1914, it came to the attention of the Commission that the Atlantic Coast Line was operating a special rate on logs in trainload lots from stations on the Newberry district to Milldale, Fla., that were not only much lower than the Commission Class F rates, which were applicable on logs, but they were much lower than any other rates that the Atlantic Coast Line had in effect on logs between points in this state.

To be perfectly frank, in the opinion of the Commissioners, this was a preferential rate, made in the interest of the Cummer Lumber Company, because the timber holdings of the Cummer Lumber Co., largely lay on the Newberry District of the Atlantic Coast Line, and because of the further fact that there was no mill at Milldale except that of the Cummer Lumber Company.

The Commissioners advised the Atlantic Coast Line R. R. Co., that they would have to cancel this tariff or make it applicable between all stations on its line in Florida, and

that in any event they would have to cancel the application of the rate to logs in trainload lots, as the Commissioners would not recognize anything above the carload as a rate making unit.

Much to the surprise of the Commissioners, the Atlantic Coast Line corrected the tariff so as to make it applicable between all stations, and open to every one who had as much as one car of logs to ship. As soon as this was done, we advised the Atlantic Coast Line that we did not approve of these rates, and we also asked Counsel for an opinion as to whether we had authority under the law to order the cancellation of a rate on the ground that in our opinion it was too low. We could get no encouragement from Counsel that the Commissioners possessed such authority under the law.

[fol. 358] As further information I enclose herewith a copy of a communication that was addressed to Mr. Jas. Menzies, Freight Traffic Manager of the Atlantic Coast Line R. R., just after their decision to publish these rates as open rates on a mileage basis.

Should the railroad at any time make application to the Commissioners to be allowed to cancel this scale of rates, we would unquestionably allow them to be cancelled, but as the matter now stands the move to cancel must be made by the carrier, as the Commission is without authority to order cancellation of a rate because it is too low.

So long as the present conditions prevail it would be to your advantage to locate your mill in Ocala, for the reasons set forth in your letter. The Commissioners regret that this condition exists, and I feel sure that after you read the letter to Mr. Menzies, which is attached hereto, you will be convinced that these rates are in effect, not because of any action of the Commissioners, but in spite of their expressed objection.

The present Class P rates in this state, which apply on lumber logs and wood, were put into effect by the Commissioners after an extended investigation, not only of the lumber industry in this state and adjoining territory, but also of the financial condition of the carriers, and we are convinced that these rates are just and reasonable as applicable to this traffic. If you will compare the rates on lum-

ber in this state with the rates on lumber in Georgia, Alabama, South Carolina, North Carolina, Virginia and Tennessee, you will find that our rates are lower than in any of these states, in which states the conditions are practically the same, except in that in each state mentioned the density of population is greater than it is in Florida.

Yours very truly, (Signed) R. Hudson Burr, Chairman.

Excerpt from 20th Annual Report, Railroad Commission, State of Florida, for Year Ending February 28, 1917

(Page 37)

"In April, 1914, it came to the attention of the Commissioners that the Atlantic Coast Line was operating a special rate on logs from stations on the Newberry district to Milldale, Florida. This rate was more than 50 per cent lower than the maximum log rates of the Commission. As there was only one mill at Milldale, and as the owners of the mill were large holders of timber rights on the Newberry district of the A. C. L., it was apparent that this rate could only be of benefit to one concern. The Commissioners advised the Atlantic Coast Line that the rate would have to be withdrawn or be made an open rate, applicable between all stations on its lines. The carrier elected to make the rate an open one, applicable between all stations.

In the opinion of the Commissioners, this is a notable instance of the removal of a discrimination and the reduction of a rate in much quicker time than could have been done by a regulating body not in close touch with local conditions."

Wilmington, N. C., October 18, 1926-h.

[fol. 359]

EXHIBIT No. 17

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Showing Interstate Scales on Logs Applicable Between Points on A. C. L. R. R. South of Charleston, S. C., Prior to August 15, 1925, and the Present Interstate Scale Uniformly Applicable Since That Date, Expressed in Cents per 100 Pounds

Prior to August 15, 1925

Miles	Alabama-interstate	Georgia interstate	Alabama-Georgia	Georgia-Florida	South Carolina interstate	General interstate	Average	Present interstate
	A	B	C	D	E	F	G	H
5	3.5	3.05	4.5	2.92	5.20	4.79	3.99	2.5
10	4.5	3.52	4.5	3.56	5.20	4.79	4.35	3
15	5	4.17	6	4.38	6.40	5.42	5.23	3.5
20	6	4.38	7	4.58	6.40	5.42	5.63	3.5
25	6.5	4.79	7	4.79	6.40	5.83	5.89	4
30	6.5	6.04	8.5	4.79	6.40	5.83	6.17	4
35	7	5.42	8.5	5.42	6.80	6.67	6.64	4.5
40	7	5.63	8.5	5.63	6.80	6.67	6.71	4.5
45	7	5.83	8.5	5.83	7	7.08	6.87	5
50	7	5.83	8.5	5.83	7	7.08	6.87	5
55	7	5	8.5	6.25	7.20	7.71	7.12	5.5
60	8	6.67	8.5	6.67	7.20	7.71	7.46	5.5
65	8	6.88	8.5	6.67	7.40	8.33	7.63	6
70	8	7.08	8.5	7.08	7.40	8.33	7.73	6
75	8	7.29	8.5	7.29	7.40	8.33	7.80	6.5

Exhibit No. 17—Continued

Miles	Alabama-interstate A	Georgia interstate B	Alabama-Georgia C	Georgia-Florida D	South Carolina interstate E	General interstate F	Average G	Present interstate H
80	8	7.71	8.5	7.71	7.40	8.33	7.94	6.5
85	8.5	7.92	8.5	8.13	7.80	8.33	8.20	7
90	8.5	8.13	8.5	8.33	7.80	8.33	8.27	7
95	8.5	8.54	8.5	8.54	7.80	8.54	8.40	7
100	8.5	8.96	8.5	8.96	7.80	8.96	8.61	7
110	9	9.17	8.5	9.17	8	9.17	8.84	7.5
120	9	9.38	8.5	9.38	8	9.38	8.94	8
130	9	9.58	8.5	9.58	8.20	9.58	9.07	8.5
140	9.5	10	8.5	10.21	8.20	10.21	9.44	8.5
150	10.5	10.42	8.5	10.42	8.20	10.42	9.74	9
160	10.5	10.63	10.5	10.42	8.20	10.42	10.11	9
170	10.5	10.83	10.5	10.83	8.20	10.83	10.28	9.5
180	10.5	11.25	10.5	11.25	8.20	11.25	10.49	9.5
190	11	11.38	10.5	11.38	8.20	11.38	10.64	10
200	....	11.67	....	11.88	8.20	12.29	11.01	10
210	....	11.88	....	12.08	8.60	12.29	11.21	10.5
220	....	12.29	....	12.29	8.60	12.29	11.37	10.5
230	....	12.50	....	12.29	8.60	12.29	11.42	11
240	....	12.50	....	12.92	8.60	12.92	11.74	11
250	....	12.71	....	12.92	8.80	12.92	11.84	11.5
260	....	12.92	....	12.92	8.80	12.92	11.89	11.5
270	....	13.13	....	13.75	.....	13.75	13.54	11.5
280	....	13.33	....	13.75	.....	13.75	13.61	11.5
290	....	13.54	....	14.17	.....	14.17	13.96	12
300	....	13.54	....	14.17	.....	14.17	13.96	12

310	....	.....	....	14.17	.....	14.17	14.17	12.5
320	....	.....	....	14.17	.....	14.17	14.17	12.5
330	....	.....	....	14.79	.....	14.79	14.79	13
340	....	.....	....	14.79	.....	14.79	14.79	13
350	....	.....	....	14.79	.....	14.79	14.79	13.5

[fol. 360]

360	....	.....	....	14.79	.....	14.79	14.79	13.5
370	....	.....	....	14.79	.....	15.21	15	14
380	....	.....	....	16.04	.....	16.04	16.04	14
390	....	.....	....	16.04	.....	16.46	16.25	14.5
400	....	.....	....	16.04	.....	17.08	16.56	14.5
410	....	.....	....	.....	.....	17.71	17.71	15
420	....	.....	....	.....	.....	18.33	18.33	15
430	....	.....	....	.....	.....	18.75	18.75	15.5
440	....	.....	....	.....	.....	19.58	19.58	15.5
450	....	.....	....	.....	.....	19.79	19.79	16
460	....	.....	....	.....	.....	19.79	19.79	16
470	....	.....	....	.....	.....	19.79	19.79	16.5
480	....	.....	....	.....	.....	19.79	19.79	16.5
490	....	.....	....	.....	.....	19.79	19.79	17
500	....	.....	....	.....	.....	19.79	19.79	17
510	....	.....	....	.....	.....	19.79	19.79	17.5
520	....	.....	....	.....	.....	19.79	19.79	17.5
530	....	.....	....	.....	.....	21.25	21.25	18
540	....	.....	....	.....	.....	21.25	21.25	18
550	....	.....	....	.....	.....	21.25	21.25	....

Explanation of Letters in Heading

A—Applicable Interstate in Alabama on Logs, C. L. Minimum Weight 24,000 lbs.
B—Applicable Interstate in Georgia on Logs, C. L. Minimum Weight 24,000 lbs.

C—Applicable between A. C. L. Stations in Alabama and A. C. L. Stations in Georgia, Bainbridge and West, on Logs, C. L. Minimum Weight 24,000 lbs.

D—Applicable between A. C. L. Stations in Georgia and A. C. L. Stations in Florida north of Jacksonville, Monticello and North, River Junction and North, High Springs and North, Lake City and North, Fanlew and North, on Logs, C. L. Minimum Weight 30,000 lbs.

E—Applicable Interstate in South Carolina on Logs, C. L. Minimum Weight 20,000 lbs.

F—Applicable Interstate between A. C. L. R. R. Stations south of Charleston, S. C., except as provided for in A, B, C, D and E, on Logs, C. L. Minimum Weight 30,000 lbs.

G—Average of scales A, B, C, D, E and F.

H—Uniform Interstate Scale on Logs (except Walnut, Cherry and Cedar), C. L. Minimum Weight 40,000 lbs., Applicable between A. C. L. R. R. Stations south of Charleston, S. C., except Stations in Florida south of the Line from Jacksonville to Dupont, Ga., via Burnetts Lake, Alachua and High Springs, but including Stations Burnetts Lake 6, I. C. C. No. A-415.

Tariff Authorities

A. C. L. R. R. Alabama Local Tariff No. 12, I. C. C. No. B-2096,
" " Georgia " " " 19, I. " " B-2092,
" " Alabama-Georgia Interstate Tariff No. 9, I. C. C. No. B-2097,
" " Georgia-Florida " " " 9, I. C. C. No. B-2112,
" " South Carolina " " " 9 I. C. C. No. B-2102,
" " Second Division " " " 10, I. C. C. No. B-2103,
Agent J. H. Glenn's Port Lumber Tariff No. 8, I. C. C. No. A-367,
" " " " Southern Lumber Tariff No 6, I. C. C. No. A-415.
Wilmington, N. C., September 21, 1926-W.

[fol. 361]

EXHIBIT No. 18

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Comparing Atlantic Coast Line Railroad Per-car Revenue on Logs, Interstate, and in Florida Intrastate, with Per-car Revenue on Other Commodities Moving Between Atlantic Coast Line Railroad Stations in Georgia, on the One Hand, and, on the Other Hand, Stations on Atlantic Coast Line Railroad in Florida North of High Springs, Fla.

Carload Rates Expressed in Cents per 100 Pounds. Weights per Car are Actual Average on Atlantic Coast Line Railroad for Year 1925

	Rates						Revenue per Car					
	Logs		Georgia-Florida Interstate				Logs		Georgia-Florida Interstate			
Miles	Interstate	Florida intrastate	Brick	Gravel, sand	Lime	Cement	Interstate 55,000 lbs.	Florida intrastate, 55,000 lbs.	Brick, 66,580 lbs.	Gravel Sand, 92,540 lbs.	Lime, 49,020 lbs.	Cement, 70,740 lbs.
5.....	2.5	1.71	3	2.25	3.95	4.50	$13.75	$ 9.41	$19.97	$20.82	$19.36	$31.83
10.....	3	1.71	3	2.50	5.10	5.65	16.50	9.41	19.97	23.14	25.00	39.97
15.....	3.5	1.71	3.5	2.70	5.65	6.20	19.25	9.41	23.30	24.99	27.70	43.86
20.....	3.5	1.71	3.5	2.95	5.65	6.20	19.25	9.41	23.30	27.30	27.70	43.86
25.....	4	1.71	4	3.15	6.20	6.75	22.00	9.41	26.63	19.15	30.39	47.75
30.....	4	1.71	4	3.40	6.20	6.75	22.00	9.41	26.63	31.46	30.39	47.75
35.....	4.5	1.71	4.5	3.60	6.75	7.35	24.75	9.41	29.96	33.31	33.09	51.99
40.....	4.5	1.71	4.5	3.85	7.35	7.90	24.75	9.41	29.96	35.63	36.03	55.88
45.....	5	2.10	5	4.05	7.35	7.90	27.50	11.55	33.29	37.48	36.03	55.88
50.....	5	2.10	5	4.30	7.90	8.45	27.50	11.55	33.29	39.79	38.73	59.78

Exhibit No. 18—Continued

	Rates						Revenue per Car					
	Logs		Georgia-Florida Interstate				Logs		Georgia-Florida Interstate			
Miles	Interstate	Florida intrastate	Brick	Gravel, sand	Lime	Cement	Interstate 55,000 lbs.	Florida intrastate, 55,000 lbs.	Brick, 66,580 lbs.	Gravel Sand, 92,540 lbs.	Lime, 49,020 lbs.	Cement, 70,740 lbs.
55.....	5.5	2.10	5	4.50	7.90	8.45	30.25	11.55	33.29	41.64	38.73	59.78
60.....	5.5	2.10	5	4.50	7.90	8.45	30.25	11.55	33.29	41.64	38.73	59.78
65.....	6	2.30	5.5	4.75	8.45	9	33.00	12.65	36.62	43.96	41.42	63.67
70.....	6	2.30	5.5	4.75	8.45	9	33.00	12.65	36.62	43.96	41.42	63.67
75.....	6.5	2.30	6	4.95	9	9.60	35.75	12.65	39.95	45.81	44.12	67.91
80.....	6.5	2.30	6	4.95	9	9.60	35.75	12.65	39.95	45.81	44.12	67.91
85.....	7	2.30	6.5	5.20	9.60	10.15	38.50	12.65	43.28	48.12	47.06	71.80
90.....	7	2.30	6.5	5.20	9.60	10.15	38.50	12.65	43.28	48.12	47.06	71.80
95.....	7	2.60	6.5	5.40	9.60	10.15	38.50	14.30	43.28	49.97	47.06	71.80
100.....	7	2.60	6.5	5.40	9.60	10.15	38.50	14.30	43.28	49.97	47.06	71.80
110.....	7.5	2.80	7	5.65	10.15	10.70	41.25	15.40	46.61	52.29	49.76	75.69
120.....	8	3.20	7	5.85	10.20	11.25	44.00	17.60	46.61	54.14	50.00	79.58
130.....	8.5	3.20	7	6.10	10.20	11.25	46.75	17.60	46.61	56.45	50.00	79.58
140.....	8.5	3.40	7	6.30	11.25	11.35	46.75	18.70	46.61	58.30	55.15	83.83
150.....	9	3.40	7.5	6.55	11.85	12.40	49.50	18.70	49.94	60.61	58.09	87.72
160.....	9	3.40	9.5	6.75	12.40	12.95	49.50	18.70	63.25	62.46	60.78	91.61
170.....	9.5	3.70	10	7	12.95	13.50	52.25	20.35	66.58	64.78	63.48	95.50
180.....	9.5	8.33	10	7	14.10	14.65	52.25	45.82	66.58	64.78	69.12	103.63
190.....	10	8.33	10.5	7.20	14.65	15.20	55.00	45.82	69.91	66.63	71.81	107.52
200.....	10	8.33	10.5	7.20	15.20	15.75	55.00	45.82	69.91	66.63	74.51	111.42

210.....	10.5	8.67	11	7.45	15.75	16.35	57.75	47.69	73.24	68.94	77.21	115.66
220.....	10.5	8.67	11	7.45	16.35	16.90	57.75	47.69	73.24	68.94	80.15	119.55
230.....	11	9	11.5	7.65	17.45	18	60.50	47.50	76.57	70.79	85.44	127.33
240.....	11	9	11.5	7.65	18	18.60	60.50	49.50	76.57	70.79	88.24	131.58
250.....	11.5	9.17	12	7.90	18.60	19.15	63.25	50.44	79.90	73.11	91.18	135.45
260.....	11.5	9.17	12	7.90	19.15	19.70	63.25	50.44	79.90	73.11	93.87	139.36
270.....	11.5	9.50	12.5	8.10	19.70	20.25	63.25	52.25	83.23	74.96	96.57	143.25
280.....	11.5	9.50	12.5	8.10	20.85	21.40	63.25	52.25	83.23	74.96	102.21	151.38
290.....	12	9.67	13	8.35	21.40	21.95	66.00	53.19	86.55	77.27	104.90	155.27
300.....	12	9.83	13	8.35	21.40	21.95	66.00	54.07	86.55	77.27	104.90	155.27

Tariff Authorities: Agent J. H. Glenn's I. C. C. No. A-415 (Logs); A. C. L. R. R. I. C. C. No. B-2112 (Cement, Lime, Gravel, Sand); Agent J. H. Glenn's I. C. C. No. A-508 (Brick).

Wilmington, N. C., September 25, 1926-W.

[fol. 362]

EXHIBIT No. 19

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Comparing Atlantic Coast Line Railroad Per-car Revenue on Logs, Interstate, and in Florida, Intrastate, with Per-car Revenue on Other Commodities Moving Intrastate in Georgia

Carload Rates Expressed in Cents per 100 Pounds

	Rates							Revenue per Car						
								Logs		Weights per car are actual average on A. C. L. R. R. during year 1925				
	Logs		Georgia-Florida Interstate							Georgia Intrastate				
Miles	Interstate	Florida intrastate	Brick	Gravel	Sand	Lime	Cement	Interstate, 55,000 lbs.	Florida Intrastate, 55,000 lbs.	Brick, 66,580 lbs.	Gravel, 92,540 lbs.	Sand, 92,540 lbs.	Lime, 49,020 lbs.	Cement, 70,740 lbs.
5.....	2.5	1.71	3	2.5	2	3.95	4.50	$13.75	$9.41	$19.97	$23.14	$18.51	$19.36	$34.83
10.....	3	1.71	3	2.5	2	5.10	5.65	16.50	9.41	19.97	23.14	18.51	25.00	43.73
15.....	3.5	1.71	3.5	2.5	2	5.10	6.20	19.25	9.41	23.30	23.14	18.51	25.00	47.99
20.....	3.5	1.71	3.5	3	2.5	5.65	6.20	19.25	9.41	23.30	27.76	23.14	27.70	47.99
25.....	4	1.71	4	3	2.5	5.65	6.75	22.00	9.41	26.63	27.76	23.14	27.70	52.25
30.....	4	1.71	4	3	2.5	6.20	6.75	22.00	9.41	26.63	27.76	23.14	30.39	52.25
35.....	4.5	1.71	4.5	3.5	3	6.20	7.35	24.75	9.41	29.96	32.39	27.76	30.39	56.89
40.....	4.5	1.71	4.5	3.5	3	6.75	7.90	24.75	9.41	29.96	32.39	27.76	33.09	61.15
45.....	5	2.10	5	3.5	3	6.75	7.90	27.50	11.55	33.29	32.39	27.76	33.09	61.15
50.....	5	2.10	5	4	3.5	7.35	8.45	27.50	11.55	33.29	37.02	32.39	36.03	65.40
55.....	5.5	2.10	5	4	3.5	7.90	8.45	30.25	11.55	33.29	37.02	32.39	38.73	65.40
60.....	5.5	2.10	5	4	3.5	7.90	8.45	30.25	11.55	33.29	37.02	32.39	38.73	65.40

65.....	6	2.30	5.5	4.5	4	7.90	9	33.00	12.65	36.62	41.64	37.02	38.73	69.66
70.....	6	2.30	5.5	4.5	4	7.90	9	33.00	12.65	36.62	41.64	37.02	38.73	69.66
75.....	6.5	2.30	6	4.5	4	8.45	9.60	35.75	12.65	39.95	41.64	37.02	41.42	74.30
80.....	6.5	2.30	6	4.5	4	8.45	9.60	35.75	12.65	39.95	41.64	37.02	41.42	74.30
85.....	7	2.30	6.5	5	4.5	9	10.15	38.50	12.65	43.28	46.27	41.64	44.12	78.56
90.....	7	2.30	6.5	5	4.5	9	10.15	38.50	12.65	43.28	46.27	41.64	44.12	78.56
95.....	7	2.60	6.5	5	4.5	9	10.15	38.50	14.30	43.28	46.27	41.64	44.12	78.56
100.....	7	2.60	6.5	5	4.5	9	10.15	38.50	14.30	43.28	46.27	41.64	44.12	78.56
110.....	7.5	2.80	7	5	4.5	9.60	10.70	41.25	15.40	46.61	46.27	41.64	47.06	82.82
120.....	8	3.20	7	5.5	5	9.60	11.25	44.00	17.60	46.61	50.90	46.27	47.06	87.08
130.....	8.5	3.20	7	5.5	5	10.15	11.25	46.75	17.60	46.61	50.90	46.27	49.76	87.08
140.....	8.5	3.40	7	6	5.5	10.15	11.85	46.75	18.70	46.61	55.52	50.90	49.76	91.72
150.....	9	3.40	7.5	6	5.5	11.25	12.40	49.50	18.70	49.94	55.52	50.90	55.15	95.98
160.....	9	3.40	7.5	6	5.5	11.85	12.95	49.50	18.70	49.94	55.52	50.90	58.09	100.23
170.....	9.5	3.70	8	6.5	6	12.40	13.50	52.25	20.35	53.26	60.15	55.52	60.78	104.49
180.....	9.5	8.33	8	6.5	6	12.95	14.65	52.25	45.82	53.26	60.15	55.52	63.49	113.39
190.....	10	8.33	8.5	6.5	6	13.50	15.20	55.00	45.82	56.59	60.15	55.52	66.18	117.65
200.....	10	8.33	8.5	7	6.5	14.10	15.75	55.00	45.82	56.59	64.78	60.15	69.12	121.91
210.....	10.5	8.67	9	7	6.5	14.65	16.35	57.75	47.69	59.92	64.78	60.15	71.81	126.55
220.....	10.5	8.67	9	7	6.5	15.20	16.90	57.75	47.69	59.92	64.78	60.15	74.52	130.81
230.....	11	9	9	7.5	7	15.75	18	60.50	49.50	59.92	69.41	64.78	77.21	139.32
240.....	11	9	9	7.5	7	16.35	18.60	60.50	49.50	59.92	69.41	64.78	80.15	143.96
250.....	11.5	9.17	9.5	7.5	7	17.45	19.15	63.25	50.44	63.25	69.41	64.78	85.54	148.22
260.....	11.5	9.17	9.5	7.5	7	18	19.70	63.25	50.44	63.25	69.41	64.78	88.24	152.48
270.....	11.5	9.50	10	8	7.5	18.60	20.25	63.25	52.25	66.58	74.03	69.41	91.18	156.74
280.....	11.5	9.50	10	8	7.5	19.15	21.40	63.25	52.25	66.58	74.03	69.41	93.87	165.64
290.....	12	9.67	10.5	8	7.5	19.70	21.95	66.00	53.19	69.91	74.03	69.41	96.57	169.89
300.....	12	9.83	10.5	8	7.5	20.25	21.95	66.00	54.07	69.91	74.03	69.41	99.27	169.89

Tariff Authority: Agent J. H. Glenn's I. C. C. No. A-415.

Wilmington, N. C., Sept. 23, 1926-W.

[fol. 363]

EXHIBIT No. 20

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Comparing Atlantic Coast Line Railroad Per-car Revenue on Logs, Interstate, and in Florida Intrastate, with Per-car Revenue on Other Commodities Moving Intrastate in Florida.

Carload Rates Expressed in Cents per 100 lbs. Weights per Car are Actual Average on A. C. L. R. R. During Year 1925.

	Rates							Revenue per car						
	Logs		Florida Intrastate					Logs		Florida Intrastate				
Miles	Interstate	Florida intrastate	Brick	Lime-stone	Sand	Lime	Cement	Inter-state, 55,000 lbs.	Florida Intra-state, 55,000 lbs.	Brick, 66,580 lbs.	Lime-stone, 92,540 lbs.	Sand, 92,540 lbs.	Lime, 49,020 lbs.	Cement, 70,740 lbs.
5.....	2.5	1.71	3.83	2.70	2.38	6.20	6.75	$13.75	$9.41	$25.50	$24.99	$22.02	$30.39	$47.75
10.....	3	1.71	4.17	3	2.64	6.20	6.75	16.50	9.41	27.76	27.76	24.43	30.39	47.75
15.....	3.5	1.71	5	3.83	3.19	6.75	7.35	19.25	9.41	33.29	35.44	29.52	33.09	51.99
20.....	3.5	1.71	5	3.83	3.19	6.75	7.35	19.25	9.41	33.29	35.44	29.52	33.09	51.99
25.....	4	1.71	5.17	3.83	3.47	7.90	8.45	22.00	9.41	34.42	35.44	32.11	38.72	58.78
30.....	4	1.71	5.17	3.83	3.47	7.90	8.45	22.00	9.41	34.42	35.44	32.11	38.72	58.78
35.....	4.5	1.71	5.33	4.33	3.75	8.45	9	24.75	9.41	35.49	40.07	34.70	40.42	63.67
40.....	4.5	1.71	5.33	4.33	3.75	8.45	9	24.75	9.41	35.49	40.07	34.70	40.42	63.67
45.....	5	2.10	5.67	4.50	4.17	9	9.60	27.50	11.55	37.75	41.64	38.59	44.12	67.91
50.....	5	2.10	5.67	4.50	4.17	9	9.60	27.50	11.55	37.75	41.64	38.59	44.12	67.91
55.....	5.5	2.10	6	5	4.31	9.60	10.15	30.25	11.55	39.85	46.27	39.88	47.06	71.80
60.....	5.5	2.10	6	5	4.31	9.60	10.15	30.25	11.55	39.85	46.27	39.88	47.06	71.80

65.....	6	2.30	6.17	5.17	4.44	10.15	10.70	33.00	12.65	41.08	47.84	41.09	49.76	75.69
70.....	6	2.30	6.17	5.17	4.44	10.15	10.70	33.00	12.65	41.08	47.84	41.09	49.76	75.69
75.....	6.5	2.30	6.50	5.33	4.44	10.70	11.25	35.75	12.65	43.28	49.32	41.09	52.45	79.58
80.....	6.5	2.30	6.50	5.33	4.44	10.70	11.25	35.75	12.65	43.28	49.32	41.09	52.45	79.58
85.....	7	2.30	6.83	5.67	4.86	11.25	11.85	38.50	12.65	45.47	52.47	44.97	55.15	83.83
90.....	7	2.30	6.83	5.67	4.86	11.25	11.85	38.50	12.65	45.47	52.47	44.97	55.15	83.83
95.....	7	2.60	6.83	5.83	5.14	11.85	12.40	38.50	14.30	45.47	53.95	47.57	58.09	87.72
100.....	7	2.60	6.83	5.83	5.14	11.85	12.40	38.50	14.30	45.47	53.95	47.57	58.09	87.72
110.....	7.5	2.80	7.17	6	5.14	11.85	12.40	41.25	15.40	47.74	55.52	47.57	58.09	87.72
120.....	8	3.20	7.50	6.50	5.56	12.40	12.95	44.00	17.60	49.94	60.15	51.45	60.78	91.61
130.....	8.5	3.20	7.67	6.67	5.69	12.40	12.95	46.75	17.60	51.07	61.72	52.66	60.78	91.61
140.....	8.5	3.40	8	6.83	5.69	12.95	13.50	46.75	18.70	53.26	63.20	52.66	63.48	95.50
150.....	9	3.40	8.17	6.83	6.11	12.95	13.50	49.50	18.70	54.40	63.20	56.54	63.48	95.50
160.....	9	3.40	8.33	7.33	6.25	13.50	14.10	49.50	18.70	55.45	67.83	57.74	66.18	99.74
170.....	9.5	3.70	8.83	7.67	6.67	13.50	14.10	52.25	20.35	58.79	70.98	61.72	66.18	99.74
180.....	9.5	8.33	8.83	7.67	6.67	14.10	14.65	52.25	45.82	58.79	70.98	61.72	69.12	103.63
190.....	10	8.33	9	8	6.81	14.10	14.65	55.00	45.82	59.92	74.03	63.02	69.12	103.63
200.....	10	8.33	9	8	6.81	14.10	14.65	55.00	45.82	59.92	74.03	63.02	69.12	103.63
210.....	10.5	8.67	9.17	8.17	6.94	14.10	14.65	57.75	47.69	61.05	75.61	64.22	69.12	103.63
220.....	10.5	8.67	9.17	8.17	6.94	14.10	14.65	57.75	47.69	61.05	75.61	64.22	69.12	103.63
230.....	11	9	9.50	8.33	6.94	14.10	14.65	60.50	49.50	63.25	77.09	64.22	69.12	103.63
240.....	11	9	9.50	8.33	6.94	14.10	14.65	60.50	49.50	63.25	77.09	64.22	69.12	103.63
250.....	11.5	9.17	9.67	8.33	7.22	14.10	14.65	63.25	50.44	64.38	77.09	66.81	69.12	103.63
260.....	11.5	9.17	9.67	8.33	7.22	14.10	14.65	63.25	50.44	64.38	77.09	66.81	69.12	103.63
270.....	11.5	9.50	9.83	8.67	7.36	14.10	14.65	63.25	52.25	65.45	80.23	68.11	69.12	103.63
280.....	11.5	9.50	9.83	8.67	7.36	14.65	15.20	63.25	52.25	65.45	80.23	68.11	71.81	107.52
290.....	12	9.67	9.83	8.83	7.50	14.65	15.20	66.00	53.19	65.45	81.71	69.41	71.81	107.52
300.....	12	9.83	9.83	8.83	7.64	14.65	15.20	66.00	54.07	65.45	81.71	70.70	71.81	107.52

Tariff Authority: Agent J. H. Glenn's I. C. C. No. A-4-5.

Wilmington, N. C., Sept. 21, 1926-W.

EXHIBIT No. 21

[fol. 364] I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Showing Percentage Relationship that A. C. L. R. R. Interstate Log Rates Bear to Lumber Rates Ordered by the Interstate Commerce Commission in the "Meridian Case," 60 I. C. C., 5; Also to Basic Mileage Scale Applied on Lumber Between Southeastern and Carolina Territories

	A	B		Percentage relationship that A. C. L. R. R. interstate log rates bear to the lumber rates in column	
Miles	Lumber rates prescribed in Meridian case, 60 I. C. C. 5	Basis scale of lumber rates applied between Southeastern and Carolina territories	A. C. L. R. R. interstate rates on logs	A	B
5.....	5	4.5	2.5	50	55.6
10.....	6	5	3	50	60
15.....	6.5	5.5	3.5	53.9	63.6
20.....	7	6	3.5	50	58.4
25.....	7	6.5	4	57.1	61.6
30.....	8	7	4	50	57.1
50.....	9	8.5	5	55.6	58.9
75.....	11.5	10.5	6.5	56.6	61.9
100.....	12.5	11.5	7	56	60.8
125.....	14	13.5	8.5	60.7	63
150.....	15	14.5	9	60	62.1
175.....	17	15.5	9.5	55.9	61.3
200.....	18	16.5	10	55.6	60.6
225.....	....	18	11	....	61.2
250.....	....	19	11.5	....	60.6
275.....	....	20	11.5	....	57.5
300.....	....	20.5	12	....	58.6
325.....	....	22.5	13	....	57.8
350.....	....	23.5	13.5	....	57.5
375.....	....	24	14	....	58.4
400.....	....	24.5	14.5	....	59.2
425.....	....	26.5	15.5	....	58.5
450.....	....	27.5	16	....	58.2

Tariff authority: Agent J. H. Glenn's I. C. C. No. A-415.

Wilmington, N. C., Sept. 21, 1926-W.

[fol. 365]

EXHIBIT No. 22

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Showing Tonnage, Average Distances Hauled, and Revenue Results from the Transportation of Various Commodities of the Lowest Transportation Characteristics Moved on Atlantic Coast Line Railroad During the Month of May, 1926

Commodity	Tons	Percentage of all tonnage	Revenue	Percentage of all freight revenue	Revenue per ton	Average haul (miles)	Revenue per ton per mile	Relation of percentage of all freight revenue to percentage of all tonnage (per cent)
Cotton Seed	3,065	0.13	$4,895.86	0.08	$1.60	78	.0205	61.5
Cotton Seed Hulls	2,101	0.09	3,948.13	0.07	1.88	118	.0159	77.7
Clay	23,254	1.00	31,794.35	0.54	1.37	192	.0071	54
Gravel and Sand	615,737	26.49	541,564.55	9.16	.88	120	.0073	34.5
Stone	36,204	1.56	44,123.04	0.75	1.22	150	.0082	48.1
Asphalt	13,953	0.60	41,736.48	0.71	2.99	263	.0114	118
Salt	1,637	0.07	5,317.18	0.09	3.25	262	.0124	128
Phosphate Rock	190,166	8.18	227,294.04	3.84	1.20	154	.0077	46.9
Cord Wood	22,594	0.97	18,060.17	0.31	.80	66	.0121	31.9
Cross Ties	19,582	0.84	28,310.56	0.48	1.45	115	.0125	57.1
Cement	53,213	2.29	121,023.33	2.05	2.27	243	.0094	89.5
Brick—Artificial Stone	76,631	3.30	137,472.71	2.32	1.79	213	.0084	70
Lime—Plaster	10,576	0.46	22,917.65	0.39	2.17	217	.0100	84.8
Fertilizer	76,160	3.28	162,445.43	2.75	2.13	100	.0213	83.8
Logs	168,756	7.26	121,015.66	2.05	.72	109	.0066	28.4

Wilmington, N. C., September 22, 1926-W.

[fol. 366] EXHIBIT No. 23

I. C. C. Docket No. 18364

Witness. J. W. Perrin

Statement Showing Present and Proposed Rates on Logs, C. L., Between Points on Atlantic Coast Line Railroad in Florida and Points on Atlantic Coast Line Railroad in Georgia. North Florida Includes Points on Atlantic Coast Line Railroad in Florida on and North of Its Line from Jacksonville Through Burnetts Lake and Gainesville to High Springs. South Florida Includes Other Points on Atlantic Coast Line Railroad in Florida

	North Florida			South Florida	
	Present			Present	
Miles	Description A, in cents per 100 pounds	Description B, rates per car expressed in cents per cwt.	Proposed description C, in cents per 100 pounds	Present description D, rates per car expressed in cents per cwt.	Proposed description C, in cents per 100 pounds
5	2.5	....	2.5	.....	....
10	3	....	2.5	.....	....
15	3.5	2.63	3	.....	....
20	3.5	2.75	3	.....	....
25	4	2.88	3.5	.....	....
30	4	2.88	3.5	.....	....
35	4.5	3.25	4	.....	....
40	4.5	3.38	4	.....	....
45	5	3.50	4.5	.....	....
50	5	3.50	4.5	7.10	5
55	5.5	3.75	4.5	7.70	5
60	5.5	3.88	5	7.70	6
65	6	4	5	8.30	6
70	6	4.25	5	8.30	6
75	6.5	4.38	5.5	8.30	6.5
80	6.5	4.50	5.5	8.30	6.5
85	7	4.88	5.5	8.30	6.5
90	7	5	6	8.30	7
95	7	5.13	6	8.50	7
100	7	5.13	6	8.96	7
110	7.5	5.50	6.5	9.17	7.5
120	8	5.63	6.5	9.37	7.5
130	8.5	5.75	7	9.58	8
140	8.5	6	7	10.20	8
150	9	6.13	7.5	10.40	8.5

Miles	North Florida: Present: Description A, in cents per 100 pounds	North Florida: Present: Description B, rates per car expressed in cents per cwt.	North Florida: Proposed description C, in cents per 100 pounds	South Florida: Present description D, rates per car expressed in cents per cwt.	South Florida: Proposed description C, in cents per 100 pounds
160	9	....	7.5	10.40	8.5
170	9.5	....	8	10.80	9
180	9.5	....	8	11.30	9
190	10	....	8.5	11.50	10
200	10	....	8.5	12.30	10
210	10.5	....	9	12.30	10.5
220	10.5	....	9	12.30	10.5
230	11	....	9.5	12.30	11
240	11	....	9.5	12.90	11
250	11.5	....	10	12.90	11.5
260	11.5	....	10	12.90	11.5
270	11.5	....	10.5	13.80	12
280	11.5	....	10.5	13.80	12
290	12	....	11	14.20	12.5

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300	12	....	11	11.20	12.5
310	12.5	....	11.5	14.20	13
320	12.5	....	11.5	14.20	13
330	13	....	12	14.80	14
340	13	....	12	14.80	14
350	13.5	....	12.5	14.80	14.5
360	13.5	....	12.5	14.80	14.5
370	14	....	13	15.20	15
380	14	....	13	16	15
390	14.5	....	13.5	16.50	15.5
400	14.5	....	13.5	17.10	15.5
410	15	....	14	17.70	16
420	15	....	14	18.30	16
430	15.5	....	14.5	18.80	16.5
440	15.5	....	14.5	19.60	16.5
450	16	....	15	19.80	17

Descriptions and Tariff Authorities

Present:

A—Logs (except walnut, cherry and cedar), C. L., minimum weight 40,000 pounds, in cents per 100 pounds. Agent J. H. Glenn's I. C. C. No. A-415.

B—Logs (not hewn or sawn, nor piling nor poles) and short length blocks, round or split, when for manufacture and product reshipped, per car 40,000 pounds, excess in proportion. (When logs are not manufactured and product not reshipped, apply rates shown in mileage scale on page 48 of Supplement 27 to Agent J. H. Glenn's I. C. C. No. A-415; when blocks are not manufactured and product reshipped, apply rates shown in A. C. L. R. R. I. C. C. No. B-2112, G. F. O. No. 12 and I. C. C. No. B-2103, G. F. O. No. 14, Supplements thereto or reissue thereof). Agent J. H. Glenn's I. C. C. No. A-415. Applicable only to Bainbridge, Thomasville and Metcalf, Ga.

D—Logs, all kinds (except mahogany, cedar, cherry and walnut), C. L., minimum weight 30,000 lbs., Class "P" per 24,000 pounds, A. C. L. R. R. I. C. C. No. B-2103, with Notes A and 8 Exceptions to Southern Classification. Agent E. H. Dulaney's I. C. C. No. 20.

Proposed:

C—Logs (except walnut, cherry and cedar), C. L., minimum weight 40,000 pounds, in cents per 100 pounds.

Wilmington, N. C., October 1, 1926-W.

[fol. 368]

EXHIBIT No. 24

I. C. C. Docket No. 18364

Witness: J. W. Perrin

Statement Comparing Alabama Intrastate Scale on Logs, C. L. (Proposed to Apply Between Points in North Florida and Points in Georgia) with Scales Prescribed by Interstate Commerce Commission; Also with the Suspended Scale of the Georgia Public Service Commission; Also with the General Interstate Scale of Southern Railway

Rates Expressed in Cents per 100 Pounds

Miles	To Meridian, Miss. (60 I. C. C. 5)	From Sou. Ry. in S. C. to Savannah (59 I. C. C. 81)	From A. C. L. R. R. in S. C. to A. C. L. R. R. in N. C. (62 I. C. C. 69)	Intrastate in Ga. (Georgia Com. Order 4-15-25) (suspended)	Intrastate in Alabama	Sou. Ry. interstate (Sou. Ry. I. C. C. No. A-9783
5	2.9	2.88	....	2.5	2.5	2.5
10	3.1	2.88	....	3	2.5	2.5
15	3.4	3.25	....	3	3	3.5
20	3.8	3.25	....	3.5	3	3.5
25	4	3.50	....	3.5	3.5	3.5
30	4.3	3.50	....	4	3.5	3.5
35	4.4	4	....	4	4	4
40	4.5	4	....	4	4	4
45	4.6	4.25	....	4.5	4.5	4.5
50	4.9	4.25	....	4.5	4.5	4.5
55	5	4.63	....	4.5	4.5	4.5
60	5.1	4.63	....	5	5	4.5
65	5.1	5	....	5	5	5
70	5.4	5	....	5	5	5
75	5.5	5.38	....	5.5	5.5	5

Exhibit No. 24—Continued

Miles	To Meridian, Miss. (60 I. C. C. 5)	From Sou. Ry. in S. C. to Savannah (59 I. C. C. 81)	From A. C. L. R. R. in S. C. to A. C. L. R. R. in N. C. (62 I. C. C. 69)	Intrastate in Ga. (Georgia Com. Order 4-15-25) (suspended)	Intrastate in Alabama	Sou. Ry. interstate (Sou. Ry. I. C. C. No. A-9783
80	5.6	5.38	....	5.5	5.5	5
85	5.8	5.63	....	5.5	5.5	6
90	6	5.63	....	6	6	6
95	6.1	6.13	....	6	6	6.5
100	6.3	6.13	6.5	6	6	6.5
110	6.5	6.25	6.5	6.5	6.5	6.5
120	6.8	6.75	7	6.5	6.5	7
130	7.1	7.13	7	7	7	7
140	7.4	7.38	7.5	7	7	7
150	7.6	7.75	8	7.5	7.5	8
160	7.9	....	8	7.5	7.5	8
170	8.3	....	8.5	8	8	8.5
180	8.5	....	9	8	8	9
190	8.8	....	9.5	8.5	8.5	9
200	9	....	10	8.5	8.5	9.5
210	...	....	10	9	9	10.5
220	...	....	10.5	9	9	10.5
230	...	....	11	9.5	9.5	11
240	...	....	11	9.5	9.5	11
250	...	....	11.5	10	10	11.5
260	...	....	11.5	10	10	11.5
270	...	....	11.5	10.5	10.5	11.5
280	...	....	12	10.5	10.5	12.5
290	...	....	12	11	11	13
300	...	....	12.5	11	11	13

[fol. 369]

310	...	....	12.5	11.5	11.5	13.5
320	...	....	13	11.5	11.5	13.5
330	...	....	13.5	12	12	13.5
340	...	....	13.5	12	12	13.5
350	...	....	14	12.5	12.5	14
360	...	....	14	12.5	12.5	14
370	...	....	14.5	13	13	15
380	...	....	14.5	13	13	15
390	...	....	15	13.5	13.5	15
400	...	....	15	13.5	13.5	15
410	...	....	....	14	14	15.5
420	...	....	....	14	14	15.5
430	...	....	....	14.5	14.5	16
440	...	....	....	14.5	14.5	16
450	...	....	....	15	15	16

Wilmington, N. C., October 1, 1926-W.

[fol. 370] EXHIBIT No. 25—Revised

I. C. C. Docket No. 18364

(Items A to K, Inclusive)

Witness: J. Lowell White

Statement (Item K) Showing Estimated Cost of Log Service Performed by Atlantic Coast Railroad Company for Brooks-Scanlon Corporation from Perry and Carbur to Eastport, Fla., in Month of September, 1926

From Item A—Cost of Road Movement	$7,196
Item B—Cost of Yard Handling	1,429
Item C—Cost of Interest and Depreciation: Locomotives	572
Item E—Cost of Maintenance: Locomotives	3,423
Item G—Cost of Maintenance: Roadway	1,386
	$14,006
Less, Account Other Traffic Hauled 3.8%	532
	$13,474
Item C—Cost of Interest and Depreciation on Cars	624
Item F—Cost of Car Hire Under Contract (75 cars)	1,072
Item H—Cost of Car Maintenance	1,723
Estimated Total Direct Cost	$16,893
Item I—Add 27.7% of $16,893 for indirect Cost	4,679
	$21,572
Item J—Add for Taxes	4,749
	$26,321
Item D—Number of Loaded Cars Hauled	1,371
Estimated cost per loaded car, not including interest on property under other than equipment	$19.13

Office of Superintendent Transportation System, Wilmington, N. C., November 1st, 1926.

[fol. 371] EXHIBIT No. 25

I. C. C. Docket No. 18364

Witness: J. Lowell White

Detail of Item A

Wage Expense of Brooks-Scanlon Corporation Trains Between Jacksonville and Perry and Carbur, September, 1926

	North loaded		South loaded	
Date	To	Amount	Date	Amount
1st	Perry	$60.19	1st	$50.84
2nd	Perry	55.88	2nd	50.84
			2nd	49.23
3rd	Perry	54.64	3rd	50.83
3rd	Carbur	56.62		
4th	Perry	58.10		
			5th	54.68
6th	Perry	65.70	6th	50.83
7th	Perry	59.87	7th	50.83
8th	Perry	54.65	8th	50.83
			8th	45.65
9th	Perry	58.51	9th	50.84
9th	Carbur	52.94		
10th	Perry	58.80	10th	59.61
11th	Perry	65.03		
			12th	50.83
13th	Perry	69.01	13th	50.83
14th	Perry	63.00	14th	50.83
15th	Perry	19.43	15th	50.83
15th	Carbur	54.56	15th	45.66
16th	Perry	67.84	16th	50.83
17th	Perry	57.65	17th	57.66
			18th	57.83
			19th	50.83
20th	Carbur	50.66	20th	38.70
20th	Perry	58.24	20th	55.46
21st	Perry	57.17	20th	56.91
22nd	Perry	54.64	22nd	55.25

Exhibit No. 25—Continued

	North loaded		South loaded	
Date	To	Amount	Date	Amount
23rd	Perry	54.74	23rd	53.30
24th	Perry	54.65	24th	50.83
25th	Perry	54.65	25th	74.67
			26th	62.51
27th	Perry	54.66	27th	50.83
27th	Carbur	53.38		
28th	Perry	48.64	28th	50.83
29th	Perry	60.19	29th	50.83
30th	Perry	54.64	30th	50.83
		$1,688.68		$1,682.09
				1,688.68
	Total			$3,370.77

This information taken from time tickets of conductors and enginemen.

Cost of supplies used as furnished by Master Mechanic at Jacksonville as per statement below	3,574.30
Cost of turning engines at Moncrief as furnished by Master Mechanic at Jacksonville per statement below	251.41
Grand total	$7,196.48

Cost of Supplies

Brooks-Scanlon to Perry and return:

22 tons coal	at	$5.35	$117.70
7 pints Eng. oil	"	.04	.28
6 pints oil	"	.08	.48
2 pts. oil	"	.04	.08
1 lb. waste	"	.08	.08
2 lb. grease	"	.16	.32
			$118.94

Exhibit No. 25—Continued

To Carbur:

19 tons coal	at	$5.35	$101.65
5¼ pts. oil	"	.08	.42
6¾ pts. oil	"	.04	.27
2 pts. oil	"	.04	.08
1 lb. waste	"	.08	.08
2 lb. grease	"	.16	.32
			$102.82

26 trips at $118.94	$3,060.20
5 trips at $102.82	514.10
Total cost of supplies	$3,574.30

Cost of Turning Engines

Labor at $3.61 per trip.
Material " 4.50 per trip.

31 trips	"	$8.11	$251.41	$251.41

[fol. 372] Exhibit No. 25, Revised

I. C. C. Docket No. 18364

Witness: J. Lowell White

(Sheet 1)

Item B

Yard movement:

Wages, 3 8 hour crews	@	$31.24	$93.72
Fuel, 24 hours X 6 miles	@	.21246 per mile	30.59
Repairs " " " " "	@	.33966 per mile	
Engine House Expense 24 hours X 6 miles	@	.04309 per mile	
Oil and supplies 24 hours X 6 miles	@	.01016 per mile	
144 Miles	@	.39291 per mile	56.58

Exhibit No. 25—Continued

1/365	Interest (6%) and depreciation (3%) on $1,4275 (Cost of engine No. 700 in 1901) ..	3.52
	Total for 24 hours	$184.41
	Total for 1 hour	7.684
	Total for 1 minute	.128
	Between Milldale and Eastport, 31 trips @ 6 hours per train load = 186 hours; 186 hours @ $7.684=	$1,429.22

Above costs per mile based on Mechanical Department Form 2903 for August (the latest report outstanding).

Item C

Interest and depreciation on equipment:

Locomotives:

Interest, 6% on 5 loco. (@ $22,566 cost price), total investment $112,830 — for 1 month	$564.15
Depreciation, 3% on 5 loco. (@ $22,566 cost price), total investment $112,830 = for 1 month	282.07
	$846.22
Divided: Brooks-Scanlon #67.6%	$572.02

Cars:

Brooks-Scanlon, Interest, 6% on 100 cars (@ $833 cost price), total $83,330 = for 1 Month	$416.50
Depreciation, 3% on 100 cars (@ $833 cost price), total $83,330 = for 1 month	208.25
Total Interest and Depreciation	$624.75

#For basis see Item D.

[fol. 373]

EXHIBIT No. 25, REVISED

I. C. C. Docket No. 18364

Witness: J. Lowell White

Brooks-Scanlon Corporation

Detail of Item D

Date, Sept., 1926	From	To	Train miles	Log cars		Total cars	Log-car miles		Other car miles	Cab and idler car miles	Total car miles
				Loaded	Empty		Loaded	Empty			
1st	Perry.....	East Port.....	166	49	0	51	7,343	0	0	318	7,661
1st	East Port.....	Perry	159	0	60	62	0	9,060	0	318	9,378
2nd	Perry.....	East Port.....	166	44	0	46	6,804	0	0	318	7,122
2nd	East Port.....	Carbur	144	0	7	10	0	1,001	143	286	1,430
2nd	East Port.....	Perry	159	0	42	44	0	6,321	0	318	6,639
3rd	Carbur.....	East Port.....	144	44	0	46	4,732	0	0	286	5,018
3rd	Perry.....	East Port.....	166	44	0	46	6,774	0	0	318	7,092
3rd	East Port.....	Perry	159	0	39	45	0	5,822	452	318	6,592
4th	Perry.....	East Port.....	166	44	0	46	6,177	0	0	318	6,495
5th	East Port.....	Perry	159	0	62	72	0	8,766	616	318	9,700
6th	Perry.....	East Port.....	166	44	0	47	6,708	0	77	318	7,103
6th	East Port.....	Perry	159	0	60	62	0	9,000	0	318	9,318
7th	Perry.....	East Port.....	166	49	0	51	7,274	0	0	318	7,592
7th	East Port.....	Perry	159	0	57	59	0	8,599	0	318	8,917
8th	Perry.....	East Port.....	166	44	0	46	6,817	0	0	318	7,135
8th	East Port.....	Perry	159	0	46	50	0	6,918	318	318	7,554

Exhibit No. 25, Revised—Continued

Date, Sept., 1926	From	To	Train miles	Log cars		Total cars	Log-car miles		Other car miles	Cab and idler car miles	Total car miles
				Loaded	Empty		Loaded	Empty			
8th	East Port.....	Carbur	144	0	0	42	0	0	2,480	282	2,762
9th	East Port.....	Perry	159	0	55	58	0	8,095	68	318	8,481
9th	Carbur.....	East Port.....	144	43	2	47	6,242	16	0	302	6,560
9th	Perry.....	East Port.....	166	39	0	41	5,931	0	0	318	6,249
10th	Perry.....	East Port.....	166	44	0	48	6,654	0	88	318	7,060
10th	East Port.....	Perry	159	0	60	63	0	9,029	50	318	9,397
11th	Perry.....	East Port.....	166	46	0	50	6,947	0	113	336	7,396
12th	East Port.....	Perry	159	0	64	70	0	9,550	324	318	10,192
14th	Perry.....	East Port.....	166	44	0	46	6,520	0	0	318	6,838
13th	East Port.....	Perry	159	0	53	60	0	7,959	669	318	8,946
14th	Perry.....	East Port.....	166	44	0	46	6,874	0	0	338	7,212
14th	East Port.....	Perry	159	0	46	48	0	6,882	0	318	7,200
15th	Carbur.....	East Port.....	144	44	0	46	6,292	0	0	286	6,578
15th	Perry.....	East Port.....	166	44	0	46	6,041	0	0	318	6,359
15th	East Port.....	Perry	159	0	52	54	0	7,800	0	318	8,118
15th	East Port.....	Carbur	144	0	34	36	0	3,910	0	286	4,196
16th	Perry.....	East Port.....	166	40	0	42	6,326	0	0	318	6,644
16th	East Port.....	Perry	159	0	57	59	0	7,945	0	318	8,263
17th	Perry.....	East Port.....	166	44	0	46	6,902	0	0	318	7,220
17th	East Port.....	Perry	159	0	68	70	0	7,682	0	318	8,000
18th	Perry.....	East Port.....	166	44	0	46	5,987	0	0	318	6,305
19th	East Port.....	Perry	159	0	50	52	0	7,290	0	318	7,608
19th	East Port.....	Carbur	144	0	0	60	0	0	4,103	286	4,389
20th	Perry.....	East Port.....	166	50	0	52	7,986	0	0	318	7,404
20th	Carbur.....	East Port.....	144	44	0	46	6,204	0	0	286	6,490
20th	East Port.....	Perry	159	0	52	54	0	7,770	0	318	8,088
21st	Perry.....	East Port.....	166	44	0	46	6,586	0	0	318	6,904

21st	East Port.....	Perry	159	0	61	63	0	9,093	0	318	9,411
22nd	Perry.....	East Port.....	166	44	0	46	6,711	0	0	318	7,029
22nd	East Port.....	Perry	159	0	51	56	0	7,428	299	318	8,045
23rd	Perry.....	East Port.....	166	44	0	46	6,996	0	0	318	7,314
23rd	East Port.....	Perry	159	0	58	60	0	8,251	0	318	8,569
24th	Perry.....	East Port.....	166	43	0	46	6,53[illegible]	0	124	318	6,981
24th	East Port.....	Perry	159	0	58	62	0	8,664	200	318	9,182
25th	Perry.....	East Port.....	166	44	0	46	6,654	0	0	318	6,972
25th	East Port.....	Carbur	144	0	49	67	0	6,659	1,168	282	8,109
26th	East Port.....	Perry	159	0	23	94	0	345	5,157	318	5,820
27th	Perry.....	East Port.....	166	43	0	45	6,428	0	0	318	6,746
27th	Carbur.....	East Port.....	144	44	0	46	6,204	0	0	282	6,486
27th	East Port.....	Perry	159	0	45	47	0	6,803	0	318	7,121
28th	Perry.....	East Port.....	166	44	0	46	6,660	0	0	318	6,978
28th	East Port.....	Perry	159	0	47	51	0	7,059	207	318	7,584
29th	Perry.....	East Port.....	166	45	0	47	6,853	0	0	318	7,171
29th	East Port.....	Perry	159	0	69	71	0	9,711	0	318	10,029
30th	Perry.....	East Port.....	166	44	0	46	6,618	0	0	318	6,936
30th	East Port.....	Perry	159	0	48	53	0	7,200	368	318	7,886
	Total.....		9,890	1,371	1,475	3,195	202,884	210,628	17,024	19,438	449,974

Office of Supt. Transportation—System.

[fol. 374] (Sheet 2)

Item D

Log-car Miles as Related to Total Car Miles in Log Trains—(September 1926)

Total Car miles in Putnam trains	215,285	= (32.4%)
Total Car Miles in Brooks-Scanlon trains	449,974	= (67.6%)
Grand Total	665,259	= (100 %)

Total Log and Idler Car Miles (Loaded and Empty), Brooks-Scanlon

Loaded	202,884
Empty	210,628
Idler	19,438
	432,950

Ratio

B. S. log and idler car miles to B. S. total =	96.2%
Other traffic car miles to B. S. total =	3.8%

Item E

Maintenance of Equipment (Locomotives)

Train Mileage by Log Trains in September

Putnam	5,019
Brooks-Scanlon	9,890
	14,909

14,909 miles @ 33.966¢ (average cost loco. repairs per engine mile) = $5,063.99 (same basis as item B).

Brooks-Scanlon: Charge #67.6% = $3,423.

For basis see Item D.

Item F

Contract Mileage Earnings Made by Brooks-Scanlon Cars in September, 1926

Car-miles				
Loaded	Empty	Total	Rate	Amount
89,442	89,194	178,636	$ .006	$1,071.82

Item G

Maintenance of Roadway

Distance, Perry to Moncrief, 158.0.
158 miles = 19.7 sections.

8 miles
19.7 sections X $104 = $2,050 per month.
Divide: Brooks-Scanlon, #67.6% = $1,386.

[fol. 375] (Sheet 3)

Item H

Maintenance of Equipment

Cost of repairs to assigned equipment for 12 months (Moncrief)	$13,600
For 1 month	$1,133
Cost of repairmen at Eastport, Carbur and Perry for 1 month	731
	$1,864
Less average monthly bill against B. S. Corpn	141
	$1,723

Office of Superintendent Transportation, Wilmington, N. C., November 1st, 1926.

For basis see Item D.

[fol. 376]

EXHIBIT No. 25

I. C. C. Docket No. 18364

Witness J. Lowell White

(Sheet 1 of 3)

Detail of Item I

	Account No.	Indirect	Direct
I. Maintenance of way and structures:			
Superintendence	201	$244,537	.....
Roadway maintenance	202	.....	$655,636
Bridges, trestles, and culverts	208	406,752	.....
Ties	212	.....	1,007,369
Rails	214	.....	450,798
Other track material	216	.....	418,488
Ballast	218	.....	163,583
Track laying and surfacing	220	.....	1,809,146
Right-of-way fences	221	14,004	.....
Crossings and signs	225	42,355	.....
Stations and office buildings	227	.....	322,306
Roadway buildings	229	85,721	.....
Water stations	231	127,830	.....
Fuel stations	233	27,894	.....
Shops and engine houses	235	73,620	.....
Wharves and docks	241	.....	81,380
Telegraph and telephone lines	247	66,769	.....
Signals and interlockers	249	123,517	.....
Miscellaneous structures	265	4,266	.....
Paving	267	.....	13,666
Roadway machines	269	71,644	.....
Small tools and supplies	271	.....	88,266
Removing snow, ice, and sand	272	5,348	.....
Assessments for public improvements	273	.....	4,353
Injuries to persons	274	14,926	.....
Insurance	275	27,363	.....
Stationery and printing	276	9,683	.....
Other expenses	277	.....	812
Maintaining joint tracks, yards, and other facilities—Dr.	278	.....	33,346
Maintaining joint tracks, yards, and other facilities—Cr.	279	178,567*	.....
Equalization—Way and Structures—Ties and Rails	280	.....	321,214*
Total maintenance of way and structures		1,167,662	4,727,935
II. Maintenance of equipment:			
Superintendence	301	245,431	.....
Shop machinery	302	191,868	.....
Steam locomotives—Repairs	308	.....	2,725,833
Steam locomotives—Depreciation	309	.....	326,198

[*Red in copy.]

Exhibit 25—Continued

	Account No.	Indirect	Direct
Steam locomotives—Retirements	310	2,239	.....
Freight-train cars—Repairs	314	.....	3,980,831
Freight-train cars—Depreciation	315	.....	819,337
Freight-train cars—Retirements	316	13,147	.....
Floating equipment—Repairs	323	.....	6,819
Floating equipment—Depreciation	324	.....	1,616
Work equipment—Repairs	326	137,015	.....
Work equipment—Depreciation	327	18,311	.....
Work equipment—Retirements	328	7,003	.....
Injuries to persons	332	14,944	.....
Insurance	333	37,025	.....
Stationery and printing	334	16,664	.....
Other Expenses	335	4,774	.....
Maintaining joint equipment at terminals—Dr.	336	.....	3,109
Maintaining joint equipment at terminals—Cr.	337	.....	1,805*
Total maintenance of equipment		688,421	7,861,938

[fol. 377] (Sheet 2 of 3)

III. Traffic:			
Superintendence	351	311,733	.....
Outside agencies	352	.....	281,523
Advertising	353	.....	1,451
Traffic associations	354	.....	31,767
Industrial and immigration bureaus	356	.....	7,107
Insurance	357	.....	55
Stationery and printing	358	112,793	.....
Total traffic		424,526	321,903
IV. Transportation rail line:			
Superintendence	371	574,507	.....
Dispatching trains	372	280,252	.....
Station employees	373	.....	2,940,911
Weighing, inspection, and demurrage bureaus	374	94,807	.....
Station supplies and expenses	376	.....	218,441
Yard masters and yard clerks	377	758,709	.....
Yard conductors and brakemen	378	.....	1,247,958
Yard switch and signal tenders	379	18,000	.....
Yard enginemen	380	.....	815,146
Fuel for yard locomotives	382	.....	622,916
Water for yard locomotives	385	34,965	.....
Lubricants for yard locomotives	386	.....	11,051
Other supplies for yard locomotives	387	.....	13,314
Engine-house expenses—Yard	388	.....	199,866
Yard supplies and expenses	389	42,664	.....
Operating joint yards and terminals—Dr.	390	.....	110,853
Operating joint yards and terminals—Cr.	391	.....	156,097*
Train enginemen	392	.....	1,671,327
Fuel for train locomotives	394	.....	2,584,571

[*Red in Copy]

Exhibit No. 25—Continued

	Account No.	Indirect	Direct
Water for train locomotives	397	.....	103,223
Lubricants for train locomotive	398	.....	56,740
Other supplies for train locomotives	399	.....	49,238
Engine-house expenses—Train	400	.....	453,903
Trainmen	401	.....	2,173,602
Train supplies and expenses	402	256,893	.....
Signal and interlocker operations	404	46,877	.....
Crossing protection	405	50,072	.....
Drawbridge operation	406	.....	17,424
Telegraph and telephone operation	407	14,146	.....
Operating floating equipment	408	.....	21,161
Stationery and printing	410	140,014	.....
Other expenses	411	28,937	.....
Operating joint tracks and facilities—Dr.	412	.....	9,343
Operating joint tracks and facilities—Cr.	413	.....	87,597*
Insurance	414	49,844	.....
Clearing wrecks	415	159,169	.....
Damage to property	416	49,847	.....
Damage to live stock on right-of-way	417	53,152	.....
Loss and damage—Freight	418	625,686	.....
Injuries to persons	420	638,007	.....
Total transportation rail line		3,906,548	13,077,294

[fol. 378] (Sheet 3 of 3)

VII. General:			
Salaries and expenses of general officers	451	101,989	.....
Salaries and expenses of clerks and attendants	452	537,705	.....
General office supplies and expenses	453	20,108	.....
Law expenses	454	148,507	.....
Insurance	455	520	.....
Relief department expenses	456	33,486	.....
Pensions	457	40,831	.....
Stationery and printing	458	65,275	.....
Valuation expenses	459	28,880	.....
Other expenses	460	40,742	.....
General joint facilities—Dr.	461	1,062	.....
General joint facilities—Cr.	462	629*	.....
Total general expenses		1,018,476	.....

Proportion Expense Charged to "Freight" January to August, 1926 (Inc.)

	Account No.	Indirect	Direct	Total
Maintenance of way and structures	201-280	$1,167,662	$4,727,935	$5,895,597
Maintenance of Equipment	301-337	688,421	7,861,938	8,550,359
Traffic	351-359	424,526	321,903	746,429
Transportation	371-420	3,906,548	13,077,294	16,983,842
General	451-462	1,018,476	.....	1,018,476
Grand total	.....	$7,205,633	$25,989,070	$33,194,703

The "Indirect" expense above is 27.7% of the "Direct" expense.

[*Red in copy.]

Office of Supt. Transportation System, October 28th, 1926, Wilmington, N. C.

[fol. 379] EXHIBIT No. 25, REVISED

I. C. C. Docket No. 18364

Witness: J. Lowell White

Detail of Item J—Taxes

a. Total loaded and empty revenue freight-car miles in 1925...	411,399,089
% of empty to total mileage.....	37.6%
b. Total A. C. L. taxes in 1925 (as reported to I. C. C.).....	$6,600,000
c. 68.38% of total taxes (Production of total operating expenses charged to freight).....	$4,513,080
$\frac{a}{c}$ = taxes per loaded and empty car mile.....	$.01097
Loaded and empty log and idle car mileage 432,950 x $.01097.	$4749.46

$\frac{\$4747 \text{ (Cost of Taxes}}{1371 \text{ (Loaded log cars)}} = \$3.46$ per car.

Office of Superintendent Transportation System, Wilmington, N. C., November 1st, 1926.

[fol. 380] No. 18364

In the Commission's Docket file there are four carbon copy sheets of figures which are marked Exhibit 25 and show detail of costs of transportation under the headings Items A to J inclusive. These do not bear the stenographer's formal stamp as received. There is also included in the file a revised Exhibit 25 which is marked as received in evidence by Examiner Hillyer. Evidently this is a revision of the entire exhibit including the four carbon sheets and apparently the revised Exhibit 25 should be sufficient for the purpose of the record on appeal.

August G. Gutheim.

[fol. 381] EXHIBIT #26

BEFORE INTERSTATE COMMERCE COMMISSION

Docket #18364

GEORGIA PUBLIC SERVICE COMMISSION

vs.

ATLANTIC COAST LINE RAILROAD COMPANY

Exhibit 2

Cummer Cypress Company, Jacksonville, Florida.

[fol. 382] This agreement made the 29th day of June, in the year one thousand nine hundred and three, between the Jacksonville and Southwestern Railroad Company, party of the first part and the Cummer Lumber Company, party of the second part,

Witnesseth:

Whereas, the parties of the first and second parts in conjunction with Wellington W. Cummer and Charles W. Chase have entered into an agreement bearing even date herewith for the sale to the said Charles W. Chase of the stock of the party hereto of the first part and for other purposes.

Now, therefore, in consideration of the premises and of the covenants and undertakings expressed in said agreement and of the sum of One Dollar to each of the parties hereto in hand paid by the other,

It is agreed:

First. The party of the first part shall transport over its line of railway all freights consigned to it by the party of the second part for the period of fifteen years from the date of this agreemnet at the following rates:

Logs

Logs, per car of 50,000 lbs., minimum, for a distance of forty (40) miles or less ..... $6.00 per car

[fol. 383] For a distance sixty miles and over forty (40) miles ..... 7.00 per car

For a distance under ninety (90) miles and over sixty (60) miles	8.00 per car
For each additional ten (10) miles and over ninety (90) miles an additional charge of	1.00 per car

Provided the rate from the Suwannee River to Milldale shall not exceed ten dollars ($10.00) per car.

Wood

Wood in carload lots of 40,000 lbs., minimum for a distance of twenty (20) miles and under	$6.00
For distances under forty (40) miles and over twenty (20) miles	7.00
For distances under ninety (90) miles and over forty (40) miles	9.00
For distances under one hundred and ten (110) miles and over ninety (90) miles	10.00

Provided that the rate shall not exceed ten dollars ($10.00) per car from the Suwannee River to Milldale.

For all wood for Jacksonville delivery, there shall be added the actual terminal charges per car to the above rates.

Phosphates

The party of the second part shall be given as low a net rate on phosphates as may be given to any other shipper or shippers, directly or indirectly, and the rate charged by the party of the first part on phosphate shipments shall not be higher than that charged shippers from the same territory by other railway lines. If such rates on phosphates are not given, the party of the second part shall not be required to deliver phosphates to the party of the first part for shipment; but the failure of the party of the second part to deliver phosphate to the party of the first part for shipment, under such circumstances, shall not in any way affect the terms and conditions of this agreement as to the transportation of other freights consigned to the party of the first part.

[fol. 384] Second. The party of the first part further agrees to furnish annually transportation over its lines of railway for a period of fifteen years for not to exceed ten

persons who are officers and superintendents of the party of the second part. But it is understood that the persons so transported shall, by accepting such transportation, absolve the party of the first part from all liability for damages to their persons or their property incurred during such transportation.

In witness whereof, the parties hereto have caused these presents to be signed by their respective presidents or vice-presidents and their corporate seals to be hereto affixed in duplicate, the day and year first above written.

Jacksonville & South Western Railroad Company, by Wellington W. Cummer, President. Attest: Arthur G. Cummer, Secy. (Seal.) Cummer Lumber Company, by Wellington W. Cummer, Vice-President. Attest: Waldo E. Cummer, Asst. Secy. (Seal.)

[fol. 385] STATE OF NEW YORK,
County of New York, ss:

I, Edwin F. Corey, a Commissioner of Deeds for the State of Florida, residing in the aforesaid State and County, and duly commissioned, do hereby certify that on this day personally appeared before me Wellington W. Cummer and Arthur G. Cummer, known to me, who severally acknowledged before me that they are respectively the President and Secretary of the Jacksonville and Southwestern Railroad Company, and that the seal attached to said instrument is the corporate seal of said Railroad Company, and that they executed said instrument in the name of said Company and as its act and deed, and for the uses and purposes therein contained and expressed.

And I do hereby further certify that on this day personally appeared before me Wellington W. Cummer and Waldo E. Cummer, known to me, and severally acknowledged before me that they are the Vice-President and Assistant Secretary respectively of the Cummer Lumber Company, one of the parties to the foregoing agreement, and that the seal thereto affixed is the corporate seal of the said Cummer Lumber Company, and that as such Vice-President [fol. 386] and Assistant Secretary they executed the said agreement for and on behalf of said Company, and for the uses and purposes therein contained.

In witness whereof, I have hereunto set my hand and affixed my official seal in the City of New York, State of New York, on this 29th day of June, A. D. 1903.

Edwin F. Corey, Commissioner for the State of Florida. Office No. 56 Wall Street, New York City. (Seal.)

[fol. 387] EXHIBIT # 27

BEFORE INTERSTATE COMMERCE COMMISSION

Docket #18364

GEORGIA PUBLIC SERVICE COMMISSION

vs.

ATLANTIC COAST LINE RAILROAD COMPANY

Exhibit 1

Cummer Cypress Company, Jacksonville, Florida

[fol. 388] Atlantic Coast Line Railroad Company, 71 Broadway, New York

H. Walters, Chairman of the Board

November 8th, 1909.

Mr. A. G. Cummer, Cummer Lumber Co., Jacksonville, Fla.

MY DEAR MR. CUMMER: I am in receipt of your telegram and letter of November 6th and promptly replied as follows:

"We appreciate your telegram and assure you the redemption of the Freight Certificates will in no way affect the carrying out of the terms of the agreement of June twenty-ninth, nineteen hundred and three. These traffic agreements will be referred to in any mortgage placed upon the property. Will confirm by letter."

The above telegram fully expresses our views. I can assure you we have no more desire than you have to make any change in the traffic agreements of June 29th, 1903, as we

consider them quite as advantageous to us as they are to you, and, as I wired you, in accordance with our agreement, we will refer to these contracts in any mortgage which we place upon the property. Any agreements made by the Jacksonville & Southwestern are just as binding on the Atlantic Coast Line Railroad Company, its successor.

Yours very truly, H. Walters, Chairman.

[fol. 389] EXHIBIT #28

BEFORE INTERSTATE COMMERCE COMMISSION

Docket #18364

GEORGIA PUBLIC SERVICE COMMISSSION

vs.

ATLANTIC COAST LINE RAILROAD COMPANY

Exhibit 3

Cummer Cypress Company, Jacksonville, Florida

[fol. 390] Atlantic Coast Line Railroad Company, Office of General Superintendent, Third Division, Jacksonville, Fla.

O. H. Page, General Superintendent.

File No. 59700

August 27, 1926. TB-H.

Re special log-train service for the Cummer Cypress Company between Otter Creek and Lacoochee, Florida

Cummer Cypress Co., Jacksonville, Fla.

GENTLEMEN: Referring to your letter of April 26th, returning to me duly executed on behalf of your Company contract dated March 20, 1926, covering special log train service for your Company between Otter Creek and Lacoochee, Fla., in connection with which contract bond has been furnished in the sum of $10,000.00, through the Fidelity

and Casualty Company of New York. The agreement, it will be noted, is made effective June 19, 1926.

It is further noted that the Railroad agrees to permit your company at its sole cost and expense to equip 100 of the Railroad's flat cars with permanent stanchions of a type to insure safe handling of the logs, the cost and expense of installing and maintaining the permanent stanchions on the cars to be borne by your Company. It is, of course, understood and agreed that the 100 cars are not to be considered as permanently assigned to use by your Company, but that in time of car shortage the Railroad will furnish to your Company such proportion of the said 100 cars as is in accordance with the laws and rules and regulations governing during the time of such car shortage.

Yours truly, O. H. Page, General Superintendent.

[fol. 391] This agreement, made and entered into, in duplicate, this 20th day of March, A. D. 1926, by and between the Atlantic Coast Line Railroad Company, a corporation under the laws of the State of Virginia, hereinafter called the Railroad, party of the first part, and the Cummer Cypress Company, a corporation under the laws of the State of Florida, hereinafter called the Cypress Company, party of the second part:

Witnesseth: That

Whereas, the Cypress Company owns approximately Thirty Five Million feet of Cypress standing timber in Levy County, Florida, near Otter Creek, on the line of the Atlantic Coast Line Railroad Company between Wilcox Junction and Dunnellon in said State, which said timber the Cypress Company proposes to cut into logs and thereafter cause the same to be transported in train load lots to Lacoochee, Florida, at which point the said logs will be manufactured into lumber, and in connection with the transportation of said logs desires the Railroad to transport same from a sidetrack hereinafter mentioned, constructed near Otter Creek, over the lines of the Railroad known as the Wilcox Junction-Dunnellon Branch to Dunnellon, Florida, thence over Main Line of Lakeland District from Dunnellon to Trilby, Florida, and thence over Trilby Branch of the Jacksonville District to Lacoochee, Florida, to a certain track already constructed by the Cypress Com-

pany at Lacoochee, Florida, at which point the logs are to be delivered to the Cypress Company for unloading; and

Whereas, the Cypress Company has built, or proposes to build, a spur track leading from the said sidetrack already constructed near Otter Creek into the woods and into the Logging camps of the Cypress Company, and desires the right to connect said spur track to the said sidetrack near Otter Creek, so that cars from the Railroad may be carried by the Cypress Company into the woods for loading and thereafter returned and delivered to the Railroad on the sidetrack at Otter Creek.

Now, therefore, for and in consideration of the premises and agreements hereinafter contained, to be mutually kept and performed, and in further consideration of the sum of One Dollar ($1.00) by each of the parties to the other paid, the parties hereto have mutually covenanted and agreed as follows:

First. The sidetrack at Otter Creek, Florida, on which cars are to be delivered to and received from the Cypress Company hereunder, was constructed or is to be constructed and thereafter maintained in accordance with contract dated February 7th, 1923, shown in red on blueprint attached hereto as a part hereof.

Second. The Railroad will furnish to the Cypress Company on the said sidetrack, flat cars to be loaded by the Cypress Company with logs cut from the timber aforesaid. The Railroad agrees to permit the Cypress Company, at the sole cost and expense of the Cypress Company, to equip One Hundred (100) of the Railroad's flat cars with permanent stanchions of a type to insure safe handling of the logs. The cost and expense of installing and maintaining the permanent stanchions on the cars to be borne by the Cypress Company, and it is understood and agreed that the said cars are not to be considered as permanently assigned to use by the Cypress Company but that in time of car shortage the Railroad will furnish to the Cypress Company such proportion of said One Hundred (100) cars as is in accordance with the laws and rules and regulations governing during time of such car shortage. The Cypress Company assumes all risk of damage to the said stanchions by falling off, loss or otherwise, and will, at its sole cost and

expense make such repairs and—or renewals to the said stanchions as may be necessary in order that the same may be safe for service. The Railroad shall in no event be obligated hereunder to furnish cars in excess of the One Hundred (100) cars herein provided for.

[fol. 392] Third. The Railroad agrees that when cars shall have been placed by it on the said sidetrack near Otter Creek, the Cypress Company shall have the right to move such cars under its own power and in charge of its own crews over the spur track hereinbefore referred to, into the woods and logging camp of the Cypress Company for the purpose of loading same, provided the Cypress Company constructs and thereafter maintains the said spur track in condition satisfactory to the proper officer of the Railroad. The Cypress Company will, as soon as practicable, load the cars at its sole cost and expense, furnishing all necessary stanchions and other appliances for the purpose of properly securing the loads on the cars, and when so loaded will promptly return the said cars under its own power and in charge of its own crews and deliver same to the Railroad in trains of not less than thirty (30) cars every other day, Sundays and Holidays excluded, by placing the said cars on the sidetrack near Otter Creek, above referred to. Upon return of said cars loaded with logs as aforesaid, the Railroad agrees that it will accept delivery of the train made up thereof on the sidetrack aforesaid and will move the same in trains of a minimum of thirty (30) cars from the said sidetrack over its line to Lacoochee, Florida, and will there deliver the cars on the sidetrack of the Cypress Company. Such movement shall be at the rate of not less than thirty (30) cars every other day, Sundays and Holidays excluded. Upon arrival of the cars at Lacoochee, Florida, the Cypress Company will promptly, at its sole cost and expense, unload the logs from the cars and re-deliver to the Railroad the empty cars at soon as practicable after same are delivered by the Railroad at Lacoochee.

Fourth. It is mutually understood and agreed that the prompt loading and return by the Cypress Company of the cars to be furnished by the Railroad for the woods camp, where the timber will be cut, and also prompt unloading and re-delivering by it of the cars at Lacoochee are both

of the essence of this contract and that such prompt handling is necessary in order to carry out the schedule movement herein provided for.

Fifth. In the event any train crew shall be furnished hereunder by the Railroad, whether in pursuance to the schedule herein provided for, or at the call of the Cypress Company, and such crew shall not, for a reason for which the Cypress Company is responsible, be used, then the Cypress Company will promptly on demand reimburse the Railroad for the amount paid such crew not used.

Sixth. The Cypress Company agrees to and does hereby assume full responsibility for the care and condition of the cars of the Railroad while the said cars are in the possession of the Cypress Company at Otter Creek or at Lacoochee, and in the event damage shall occur to said cars while in the possession of the Cypress Company, adjustments in relation thereto shall be subject to the rules of the American Railway Association, Division V—Mechanical, covering interchange of cars between railroads. The Cypress Company will promptly report to the Railroad the destruction of any car while in the possession of the Cypress Company, demurrage charges to cease upon receipt of such notice by the Railroad. Should the Cypress Company fail to report loss of any such car then the demurrage tariffs will continue and remain in force and effect in the same manner as if the car were in good condition for use and operation.

Seventh. The Cypress Company agrees to pay promptly to the Railroad at the rates provided for in current tariffs, all freight and demurrage charges due for the movement of said logs or for the detention of cars for a period greater than that permitted in the proper and lawful tariffs of the Railroad governing same.

Eighth. Cars shall be deemed delivered to the Cypress Company when placed on the designated tracks at Otter Creek or Lacoochee and detached from the engine by which they were moved. Cars shall be deemed delivered to the Railroad when placed in trains by the Cypress Company on [fol. 393] such tracks and attached or coupled to the engine or engines by which they are to be moved to destination, or when proper bill of lading has been issued therefor.

Ninth. The Cypress Company agrees to furnish to the Railroad a good and sufficient bond with a corporate surety to be approved by the Railroad, in the penal sum of Ten Thousand Dollars ($10,000.00), conditioned for the faithful performance by the Cypress Company of all of the obligations and agreements herein contained to be kept and performed by the Cypress Company, and so as to indemnify the Railroad against loss, cost and damage by reason of any act of malfeasance or negligence on the part of the Cypress Company or its employees in connection with handling of the cars after delivery of the same to the Cypress Company, and at all times while the said cars are in the care and under the control of the Cypress Company.

Tenth. If at any time during the continuance of this agreement, the mill of the Cypress Company at Lacoochee, Florida, shall be damaged or destroyed by fire, or otherwise, or if any accident shall happen to the machinery of the same so that the Cypress Company shall be forced to shut down same for repairs, or in the event of a strike on the part of the employees of the Railroad, or in the event that either the Railroad or the Cypress Company for any unavoidable cause, shall be temporarily prevented from performing its part of this agreement the said party may give reasonable notice to the other party, requiring as of right the temporary suspension of the performance of this agreement for a definite and reasonable period to be named in said notice, and thereupon the performance of this agreement shall be temporarily suspended for the period named in the notice.

Eleventh. The Cypress Company agrees that it will, so far as it lawfully may, cause all rail shipments of lumber manufactured by the Cypress Company from the cypress standing timber aforesaid consigned by the Cypress Company to points reached by lines of the Railroad or its connecting lines or roads, to be routed over the lines of the Railroad and its connections unless the charges for such shipments over the lines of the Railroad and its connections are higher than the lawfully published rates for like transportation of similar shipments over the lines of other transportation companies.

Twelfth. This agreement shall become effective on the 19th day of June, A. D. 1926, and shall thereafter continue in force and effect until terminated by either party hereto, by giving to the other party thirty (30) days' notice in writing of the intention to terminate this agreement.

In witness whereof, the parties hereto have caused these presents to be duly executed the day and year first above written.

Atlantic Coast Line Railroad Company, by Lyman Delano, Executive Vice-President. Attest: Geo. L. Mitchell, Asst. Secretary. (Seal.) Witnesses: E. T. Hinnant, W. M. Hinnant. Cummer Cypress Company, by A. G. Cummer, President. Attest: W. G. Cummer, Secretary. (Seal.) Witnesses: C. H. Lloyd, E. B. Chapman.

[fol. 394] Approved D. M. Lamdin, Engineer Maintenance of Way.

Approved: C. H. Sewell, Jr., Superintendent. T. L. Deming, Supt. Jnx. Dist.

Approved: O. H. Page, General Superintendent.

Approved: —— ——, General Superintendent Transp.

Approved as to form: Carl H. Davis, Counsel.

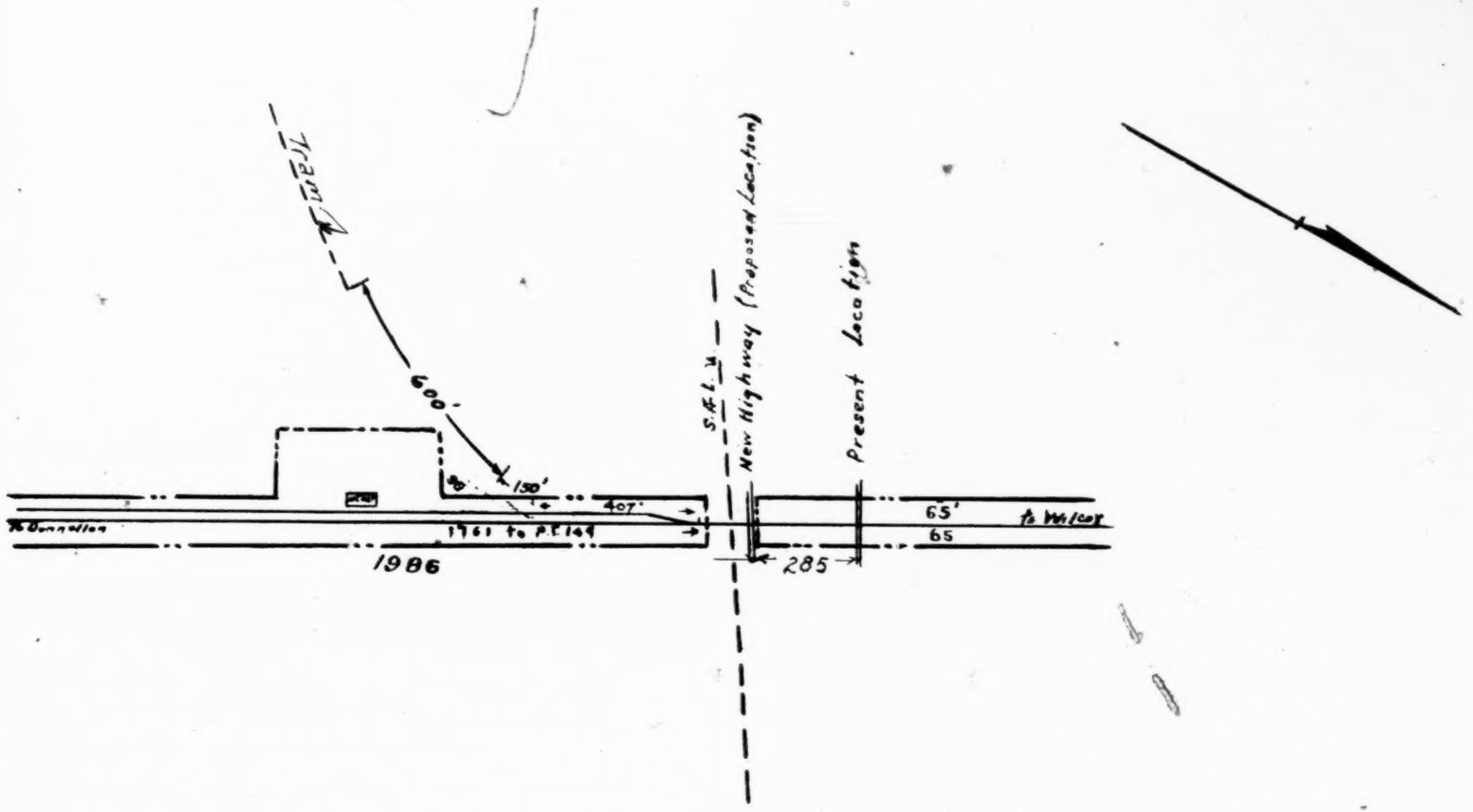
Approved: J. N. Briand, Assistant General Manager.

[fol. 395] Know all men by these presents, that the Cummer Cypress Company, a corporation created and existing under the laws of the State of Florida, as Principal, and The Fidelity and Casualty Co. of New York, as Surety, are held and firmly bound unto the Atlantic Coast Line Railroad Company in the full and just sum of Ten Thousand ($10,000.00) Dollars lawful money of the United States, to the payment whereof well and truly to be made we hereby bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals, this 10th day of May, A. D. 1926.

The condition of the above obligation is such that

Whereas, the Cummer Cypress Company has entered into an agreement with the Atlantic Coast Line Railroad



ATLANTIC COAST LINE R. R. CO.

OTTER CREEK - FLA

SCALE 1-400 R.E.804 10-24-22

OFFICE OF ENGINEER, MAINTENANCE OF WAY
JACKSONVILLE, FLA.

Change in location Road Crossing
D.E Thomas
11-23-28

2-28 23

8646-33

Company, dated the 20th day of March, A. D. 1926 with reference to the movement of logs from Otter Creek in Levy County, Florida, over the line of the Atlantic Coast Line Railroad Company; and

Whereas by the ninth paragraph of said agreement the Principal has agreed to furnish to the said Railroad Company a good and sufficient bond in the penalty of Ten Thousand ($10,000.00) Dollars, conditioned for the faithful performance of the Principal of all of the obligations of the agreement and to indemnify the said Railroad Company as in said agreement set out:

Now, therefore, if the said Principal shall well and truly perform all of the obligations in said Agreement contained, to be performed by the Principal, and shall indemnify and save harmless the said Railroad Company as in said agreement set out, then this obligation shall be void, otherwise to remain in full force and virtue.

Cummer Cypress Company, by A. G. Cummer, President. Attest: W. E. Cummer, Secretary. (Seal.)
The Fidelity and Casualty Company of New York, by Max N. Kurde, Attorney. Attest: —— ——. (Seal.)

(Here follows map, side folio 396)

[fol. 397] EXHIBIT 29

Data Pertinent to Complaint of Georgia Public Service Commission vs. Atlantic Coast Line Railroad Company Before the Interstate Commerce Commission

I. C. C. Docket No. 18364

[fol. 398] Statement of Uncut Timber of Cummer Interests Available to Plant at Lacoochee, Florida, as of Oct. 1, 1926, in the County of Levy

Township	Range	Cypress	Pine	Hardwood
12-13-14	15 & 16	18,000 M′	5,000 M′	.....
		Citrus County		
19-20	17	19,500 M′	1,503 M′	8,295 M′
		Hernando—Citrus—Sumter		
17 to 21	20-21-22	74,860 M′	.....	.....
		112,360 M′	6,503 M′	8,295 M′

When logged the above timber (127,158 M') is equivalent to approximately 28,257 car loads of logs. At the present prevailing average per car $300,060.30 will be paid in log freight to move the timber to the mill.

[fol. 399] Memorandum of Property Investment of Cummer Cypress Company at Lacoochee, Florida, June 30, 1926

Lacoochee Mill Site	16,252 74
Lacoochee Saw Mill Construction	126,703 81
Lacoochee Saw Mill Equipment	125,973 03
Lacoochee New Pine Saw Mill Construction	2,796 90
Lacoochee New Pine Saw Mill Equipment	2,390 52
Lacoochee Planing Mill Equipment	33,818 76
Lacoochee Boom Equipment	8,875 30
Lacoochee Sort Shed	2,117 22
Lacoochee Lumber Dry Kiln Construction	17,127 31
Lacoochee Lumber Dry Kiln Equipment	1,825 92
Lacoochee Burner Construction	10,820 85
Lacoochee Yard Construction	96,922 94
Lacoochee Yard Equipment	23,651 70
Lacoochee Mill Spurs	20,187 41
Lacoochee Fire Protection Account	47,269 57
Lacoochee Box Factory Construction	43,869 55
Lacoochee Box Factory Equipment	52,379 53
Lacoochee Veneer Plant Construction	28,605 75
Lacoochee Veneer Plant Equipment	19,954 26
Lacoochee Box Factory Warehouse	36,662 00
Lacoochee Veneer Dry Kiln Construction	18,322 62
Lacoochee Veneer Dry Kiln Equipment	1,085 85
Lacoochee Steam Vat Construction	2,906 74
Lacoochee Steam Plant Construction	52,582 73
Lacoochee Steam Plant Equipment	119,032 73
Lacoochee Cooling Pond	4,934 17
Lacoochee Dust House Construction	8,977 90
Lacoochee Oil House	220 13
Lacoochee Machine Shop Construction	5,090 74
Lacoochee Machine Shop Equipment	13,277 43
Lacoochee Office Building	1,838 07
Lacoochee Office Fixtures	1,680 03
Lacoochee Stable Construction	352 76
Lacoochee Tenement Houses	206,268 29

Lacoochee Bungalow Construction	2,036.52
Lacoochee Bungalow Equipment	1,324.97
Lacoochee Boarding House Construction	8,808.01
Lacoochee Boarding House Equipment	5,382.57
Lacoochee Commissary Building	4,219.80
Lacoochee Commissary Ice House Construction	805.74
Lacoochee Commissary Fixtures	3,358.14
Lacoochee Drug Store	449.89
Lacoochee Auto Account	7,238.99
Lacoochee Team & Wagon Account	1,657.74
Lacoochee Live Stock	5,476.95
	1,195,534.58

[fol. 400] Statement of Weekly Pay Roll and Number of Employees, Plant of Cummer Cypress Company, Lacoochee, Fla.

Pay Roll September 23rd, to Sept. 29th, 1926 Inc.	11,992 65
Number of Employees	617

[fol. 401] Statement of Houses Built by Cummer Cypress Company and Number of Inmates at Lacoochee, Florida

Colored	127 Houses	410 Inmates
White	77 Houses	484 Inmates
	204 Houses	894 Inmates

[fol. 402] EXHIBIT 30

BEFORE THE INTERSTATE COMMERCE COMMISSION

I .C. C. Docket No. 18364

Data Pertinent to Complaint of

GEORGIA PUBLIC SERVICE COMMISSION

vs.

ATLANTIC COAST LINE RAILROAD COMPANY

[fol. 403] Logs Hauled on J. & S. W. and A. C. L. R. R. from Various Points in Florida to Milldale, Florida

Date	No. cars	Freight
Sept. 1899	150	900.00
Oct. 1899	567	3,402.00

EXHIBIT No. 30—Continued

Date	No. cars	Freight
Nov. 1899	642	3,852.00
Dec. 1899	604	3,624.00
	1,963	11,778.00
Jan. 1900	758	4,548.00
Feb. 1900	699	4,194.00
Mar. 1900	500	3,047.00
Apr. 1900	723	5,035.00
May 1900	824	5,719.00
June 1900	675	4,728.00
July 1900	686	4,804.00
Aug. 1900	776	5,379.00
Sept. 1900	825	5,646.00
Oct. 1900	757	5,299.00
Nov. 1900	637	4,459.00
Dec. 1900	477	3,339.00
	8,337	56,197.00
Jan. 1901	645	4,515.00
Feb. 1901	560	3,920.00
Mar. 1901	633	4,431.00
Apr. 1901	639	4,473.00
May 1901	595	4,165.00
June 1901	549	3,843.00
July 1901	633	4,431.00
Aug. 1901	371	2,579.00
Sept. 1901	464	3,248.00
Oct. 1901	568	3,976.00
Nov. 1901	600	4,200.00
Dec. 1901	567	3,969.00
	6,824	47,768.00
Jan. 1902	621	4,347.00
Feb. 1902	659	4,609.00
Mar. 1902	627	4,393.00
Apr. 1902	642	4,494.00
May 1902	610	4,270.00

EXHIBIT No. 30—Continued

June 1902	535	4,244.00
July 1902	683	5,448.00
Aug. 1902	814	6,397.00
Sept. 1902	828	6,539.00
Oct. 1902	877	6,884.00
Nov. 1902	783	6,159.00
Dec. 1902	553	4,365.00
	8,232	62,149.00
Jan. 1903	603	4,759.00
Feb. 1903	698	5,416.00
Mar. 1903	740	5,771.00
Apr. 1903	803	6,222.00
May 1903	699	5,453.00
June 1903	708	5,527.00
July 1903	733	5,606.00
Aug. 1903	887	6,808.00
Sept. 1903	791	6,086.00
Oct. 1903	875	6,698.00
Nov. 1903	824	6,448.00
Dec. 1903	827	6,186.00
	9,188	70,980.00

[fol. 404]

Jan. 1904	934	6,954.00
Feb. 1904	929	6,958.00
Mar. 1904	908	6,832.00
Apr. 1904	907	6,978.00
May 1904	907	7,022.00
June 1904	912	7,006.00
July 1904	732	5,568.00
Aug. 1904	911	6,910.00
Sept. 1904	877	6,660.00
Oct. 1904	724	5,494.00
Nov. 1904	755	5,678.00
Dec. 1904	786	5,896.00
	10,282	77,956.00

EXHIBIT No. 30—Continued

Date	No. cars	Freight
Jan. 1905	651	4,878.00
Feb. 1905	651	4,916.00
Mar. 1905	754	5,710.00
Apr. 1905	662	4,822.00
May 1905	774	5,760.00
June 1905	791	5,818.00
July 1905	736	5,664.00
Aug. 1905	717	5,458.00
Sept. 1905	569	4,302.00
Oct. 1905	742	5,652.00
Nov. 1905	704	5,340.00
Dec. 1905	743	5,686.00
	8,494	64,006.00
Jan. 1906	748	5,670.00
Feb. 1906	639	4,800.00
Mar. 1906	867	6,378.00
Apr. 1906	780	5,880.00
May 1906	764	5,924.00
June 1906	865	6,920.00
July 1906	688	5,504.00
Aug. 1906	812	6,496.00
Sept. 1906	628	5,024.00
Oct. 1906	672	5,376.00
Nov. 1906	666	5,328.00
Dec. 1906	423	3,384.00
	8,552	66,684.00
Jan. 1907	654	5,232.00
Feb. 1907	578	4,624.00
Mar. 1907	434	3,472.00
Apr. 1907	378	3,024.00
May 1907	537	4,296.00
June 1907	402	3,216.00
July 1907	521	4,168.00
Aug. 1907	404	4,032.00
Sept. 1907	449	3,592.00

EXHIBIT No. 30—Continued

Date	No. cars	Freight
Oct. 1907	427	3,416.00
Nov. 1907	459	3,672.00
Dec. 1907	471	3,768.00
	5,814	46,512.00
[fol. 405]		
Jan. 1908	406	3,248.00
Feb. 1908	451	3,608.00
Mar. 1908	499	3,992.00
Apr. 1908	440	3,522.58
May 1908	500	4,000.54
June 1908	578	4,625.04
July 1908	561	4,514.51
Aug. 1908	548	4,480.66
Sept. 1908	514	4,220.22
Oct. 1908	577	4,797.27
Nov. 1908	377	3,068.91
Dec. 1908	397	3,229.73
	5,848	47,307.46
Jan. 1909	570	4,692.14
Feb. 1909	499	4,081.67
Mar. 1909	482	3,888.20
Apr. 1909	571	4,604.80
May 1909	431	3,463.66
June 1909	644	5,111.91
July 1909	644	4,933.62
Aug. 1909	689	5,258.26
Sept. 1909	721	5,494.67
Oct. 1909	709	5,313.46
Nov. 1909	624	4,724.93
Dec. 1909	576	4,432.16
	7,160	55,999.48
Jan. 1910	718	5,617.19
Feb. 1910	597	4,827.08

EXHIBIT No. 30—Continued

Date	No. cars	Freight
Mar. 1910	868	6,633.21
Apr. 1910	850	6,500.22
May 1910	810	6,127.52
June 1910	770	5,774.92
July 1910	638	4,832.11
Aug. 1910	534	4,271.82
Sept. 1910	467	3,792.54
Oct. 1910	394	3,192.88
Nov. 1910	583	5,572.24
Dec. 1910	635	6,080.19
	7,861	63,221.92
Jan. 1911	506	4,602.06
Feb. 1911	301	2,953.62
Mar. 1911	313	3,032.06
Apr. 1911	304	2,785.14
May 1911	404	3,852.36
June 1911	376	3,756.42
July 1911	356	3,571.74
Aug. 1911	354	3,433.88
Sept. 1911	301	2,904.64
Oct. 1911	362	3,402.54
Nov. 1911	390	3,620.70
Dec. 1911	414	3,932.12
	4,381	41,847.28

[fol. 406]

Jan. 1912	443	4,061.88
Feb. 1912	529	4,851.18
Mar. 1912	429	3,965.22
Apr. 1912	450	4,154.22
May 1912	711	6,458.47
June 1912	535	4,853.71
July 1912	708	6,453.64
Aug. 1912	652	6,083.24
Sept. 1912	510	4,603.65
Oct. 1912	670	6,070.99

EXHIBIT No. 30—Continued

Date	No. cars	Freight
Nov. 1912	714	6,492.58
Dec. 1912	581	5,310.62
	6,932	63,359.40
Jan. 1913	683	6,416.81
Feb. 1913	501	4,717.86
Mar. 1913	553	5,201.38
Apr. 1913	577	3,310.39
May 1913	672	6,140.49
June 1913	670	6,092.49
July 1913	641	5,828.87
Aug. 1913	581	5,262.41
Sept. 1913	562	5,101.74
Oct. 1913	369	3,363.68
Nov. 1913	345	3,159.80
Dec. 1913	346	3,150.06
	6,500	59,745.98
Jan. 1914	411	3,752.40
Feb. 1914	364	3,373.89
Mar. 1914	316	2,876.82
Apr. 1914	365	3,295.53
May 1914	407	3,680.43
June 1914	443	3,991.03
July 1914	480	4,320.00
Aug. 1914	425	3,825.00
Sept. 1914	452	4,068.00
Oct. 1914	384	3,456.00
Nov. 1914		
Dec. 1914		
	4,047	36,639.10
Jan. 1915		
Feb. 1915		
Mar. 1915	240	2,251.89
Apr. 1915	450	4,094.92

EXHIBIT No. 30—Continued

Date	No. cars	Freight
May 1915	516	4,637.11
June 1915	440	3,963.80
July 1915	426	3,836.44
Aug. 1915	467	4,229.63
Sept. 1915	434	3,916.96
Oct. 1915	423	3,810.72
Nov. 1915	418	3,767.69
Dec. 1915	486	4,382.94
	4,300	38,892.10
Jan. 1916	423	3,813.95
Feb. 1916	455	4,095.80
Mar. 1916	489	4,401.61
Apr. 1916	449	4,047.69
May 1916	464	3,783.35
June 1916	416	3,744.13
	2,696	23,886.53

[fol. 407] Recapitulation, by Years, of Logs Hauled on J. & S. W. and A. C. L. R. R. from Various Points in Florida to Milldale, Florida

Year	No. months	No. cars	Freight
1899	3½	1,913	11,778.00
1900	12	8,337	56,197.00
1901	12	6,824	47,768.00
1902	12	8,232	62,149.00
1903	12	9,188	70,980.00
1904	12	10,282	77,956.00
1905	12	8,494	64,006.00
1906	12	8,552	66,684.00
1907	12	5,814	46,512.00
1908	12	5,848	47,307.46
1909	12	7,160	55,999.48
1910	12	7,861	63,221.92
1911	12	4,381	41,847.28

EXHIBIT No. 30—Continued

Date		No. cars	Freight
1912	12	6,932	63,359.40
1913	12	6,500	59,745.98
1914	10	4,047	36,639.10
1915	10	4,300	38,892.10
1916	6	2,696	23,886.53
		117,411	934,929.25

[fol. 408] Statement of Cost of Cummer Lumber Company Plant at Jacksonville, Florida

Saw Mill Plant	314,369.10
Steam Plant	60,450.65
Box Factory	221,899.29
Yard Equipment	48,910.82
Dry Kilns	22,089.88
Docks	35,149.67
Storage Sheds	28,119.23
Fire Protection	48,373.33
Water Supply	10,717.53
Lighting Plant	2,301.65
Tenement Houses	35,178.51
Fixtures	14,578.03
Automobiles & Trucks	6,869.06
Teams & Wagons	4,913.24
Mill Site	396,801.12
	1,250,721.11

[fol. 409] EXHIBIT 31

This agreement, made and entered into, in duplicate, this 22nd day of March, A. D. 1926, by and between the Atlantic Coast Line Railroad Company, a corporation under the laws of the State of Virginia, hereinafter called the Railroad, party of the first part, and the Wilson Cypress Company, a corporation organized and existing under the laws of the State of Florida, hereinafter called the Cypress Company, party of the second part.

Witnesseth: That

Whereas the Cypress Company owns approximately Two Hundred Million feet of cypress standing timber in Dixie, Taylor and Lafayette Counties, Florida, near Hines, on the line of the Atlantic Coast Line Railroad Company between Wilcox and Perry, in said State, which said timber the Cypress Company proposes to cut into logs and thereafter cause the same to be transported in train load lots to Palatka, Florida, at which point the said logs will be manufactured into lumber, and in connection with the transportation of said logs desires the Railroad to transport same from two sidetracks hereinafter mentioned, constructed near Hines, over the lines of the Railroad known as the Perry Branch and the Florida Southern Branch, to a certain track already constructed by the Cypress Company at Palatka, Florida, at which point the logs are to be delivered to the Cypress Company for unloading; and,

Whereas the Cypress Company has built, or proposes to build a spur track leading from the said sidetracks already constructed near Hines into the woods and into the logging camps of the Cypress Company, and desires the right to connect said spur track to the said sidetracks near Hines, so that cars from the Railroad may be carried by the Cypress Company into the woods for loading and thereafter returned and delivered to the Railroad on the sidetracks at Hines.

Now, therefore, for and in consideration of the premises and agreements hereinafter contained, to be mutually kept and performed, and in further consideration of the sum of One Dollar ($1.00) by each of the parties to the other paid, the parties hereto have mutually covenanted and agreed as follows:

First. The two tracks at Hines, Florida, on which cars are to be delivered to and received from the Cypress Company hereunder, are constructed or to be constructed and thereafter maintained in accordance with contract dated March 22nd, 1926, between the parties hereto, as shown in red on blueprint attached hereto as a part hereof.

Second. The Railroad will furnish to the Cypress Company on the said sidetracks, flat cars to be loaded by the Cypress Company with logs cut from the timber aforesaid. The Railroad agrees to permit the Cypress Company, at

the sole cost and expense of the Cypress Company, to equip seventy (70) of the Railroad's flat cars with permanent stanchions of the type known as "Improved Van Donk" stakes or stake pockets, and also twenty-five (25) of the Railroad's flat cars with stanchions of the type known as "Phœnix Pocket" stakes of stake pockets. The cost and expense of installing and maintaining the permanent stanchions on the cars to be borne by the Cypress Company, and it is understood and agreed that the said cars are not to be considered as permanently assigned to use by the Cypress Company, but that in time of car shortage the Railroad will furnish to the Cypress Company such proportion of said ninety-five (95) cars as is in accordance with the law and rules and regulations governing during time of such car shortage. The Cypress Company assumes all risk of damage to the said stanchions by falling off, loss or otherwise, and will, at its sole cost and expense make such repairs and —or renewals to the said stanchions as may be necessary in order that the same may be safe for service. The Railroad shall in no event be obligated hereunder to furnish cars in excess of the ninety-five (95) cars herein provided for.

[fol. 410] Third. The Railroad agrees that when cars shall have been placed by it on the said sidetracks near Hines, the Cypress Company shall have the right to move such cars under its own power and in charge of its own crews over the spur track hereinbefore referred to, into the woods and logging camp of the Cypress Company for the purpose of loading same, provided the Cypress Company constructs and thereafter maintains the said spur track in condition satisfactory to the proper officer of the Railroad. The Cypress Company, will, as soon as practicable, load the cars at its sole cost and expense, furnishing all necessary stanchions and other appliances for the purpose of properly securing the loads on the cars, and when so loaded will promptly return the said cars under its own power and in charge of its own crews and deliver same to the Railroad in trains of not less than thirty (30) cars every other day, Sundays and Holidays excluded, by placing the said cars on one of the sidetracks near Hines, above referred to. Upon return of said cars loaded with logs as aforesaid, the Rail-

road agrees that it will accept delivery of the train made up thereof on the sidetracks aforesaid and will move the same in trains of a minimum of thirty (30) cars from the said sidetracks over its line to Palatka, Florida, and will there deliver the cars on the sidetrack of the Cypress Company. Such movement shall be at the rate of not less than thirty (30) cars every other day, Sundays and Holidays excluded. Upon arrival of the cars at Palatka, Florida, the Cypress Company will promptly, at its sole cost and expense, unload the logs from the cars and re-deliver to the Railroad the empty cars as soon as practicable after same are delivered by the Railroad at Palatka.

Fourth. It is mutually understood and agreed that the prompt loading and return by the Cypress Company of the cars to be furnished by the Railroad for the woods camp, where the timber will be cut, and also prompt unloading and re-delivering by it of the cars at Palatka, are both of the essence of this contract and that such prompt handling is necessary in order to carry out the schedule movement herein provided for.

Fifth. In the event any train crew shall be furnished hereunder by the Railroad, whether in pursuance to the schedule herein provided for, or at the call of the Cypress Company, and such crew shall not, for a reason for which the Cypress Company is responsible, be used, then the Cypress Company will promptly on demand reimburse the Railroad for the amount paid such crew not used.

Sixth. The Cypress Company agrees to and does hereby assume full responsibility for the care and condition of the cars of the Railroad while the said cars are in the possession of the Cypress Company at Hines or at Palatka, and in the event damage shall occur to said cars while in the possession of the Cypress Company, adjustments in relation thereto shall be subject to the rules of the American Railway Association, Division V—Mechanical, covering interchange of cars between railroads. The Cypress Company will promptly report to the Railroad the destruction of any car while in the possession of the Cypress Company, demurrage charges to cease upon receipt of such notice by the Railroad. Should the Cypress Company fail to report

loss of any such car then the demurrage tariffs will continue and remain in force and effect in the same manner as if the car were in good condition for use and operation.

Seventh. The Cypress Company agrees to pay promptly to the Railroad at the rates provided for in current tariffs, all freight and demurrage charges due for the movement of said logs or for the detention of cars for a period greater than that permitted in the proper and lawful tariffs of the Railroad governing same.

Eighth. Cars shall be deemed delivered to the Cypress Company when placed on the designated tracks at Hines or Palatka and detached from the engine by which they were moved. Cars shall be deemed delivered to the Railroad when placed in trains by the Cypress Company on such [fol. 411] tracks and attached or coupled to the engine or engines by which they are to be moved to destination, or when proper bill of lading has been issued therefor.

Ninth. The Cypress Company agrees to furnish to the Railroad a good and sufficient bond with a corporate surety to be approved by the Railroad, in the penal sum of Ten Thousand Dollars ($10,000.00) conditioned for the faithful performance by the Cypress Company of all of the obligations and agreements herein contained to be kept and performed by the Cypress Company, and so as to indemnify the Railroad against loss, cost and damage by reason of any act of malfeasance or negligence on the part of the Cypress Company or its employees in connection with handling of the cars after delivery of the same to the Cypress Company, and at all times while the said cars are in the care and under the control of the Cypress Company.

Tenth. If at any time during the continuance of this agreement, the mill of the Cypress Company at Palatka, Florida, shall be damaged or destroyed by fire, or otherwise, or if any accident shall happen to the machinery of the same so that the Lumber Company shall be forced to shut down same for repairs, or in the event of a strike on the part of the employees of the Railroad, or in the event that either the Railroad or the Cypress Company for any unavoidable cause, shall be temporarily prevented from performing its part of this agreement the said party may give reasonable notice to the other party, requiring as of right the temporary suspension of the performance of this

agreement for a definite and reasonable period to be named in said notice; and thereupon the performance of this agreement shall be temporarily suspended for the period named in the notice.

Eleventh. The Cypress Company agrees that it will, so far as it lawfully may, cause all rail shipments of lumber manufactured by the Cypress Company from the cypress standing timber aforesaid consigned by the Cypress Company to points reached by lines of the Railroad or its connecting lines or roads, to be routed over the lines of the Railroad and its connections unless the charges for such shipments over the lines of the Railroad and its connections are higher than the lawfully published rates for like transportation of similar shipments over the lines of other transportation companies.

Twelfth. This agreement shall become effective on the 13th day of July A. D. 1926, and shall thereafter continue in force and effect until terminated by either party hereto, by giving to the other party thirty (30) days' notice in writing of the intention to terminate this agreement.

This agreement cancels and supersedes agreement dated November 20th, 1924, between the parties hereto, covering special log train service between Old Town and Palatka, Florida.

In witness whereof, the parties hereto have caused these presents to be duly executed the day and year first above written.

Atlantic Coast Line Railroad Company, by Lyman Delano, President. Attest, Geo. L. Mitchell, Asst. Secretary. (Seal.) Wilson Cypress Company, by John G. MacPherson, President. Attest. A. A. Cann, Secretary. (Seal.)

Witnesses: E. T. Hinnant, L. C. Allen.

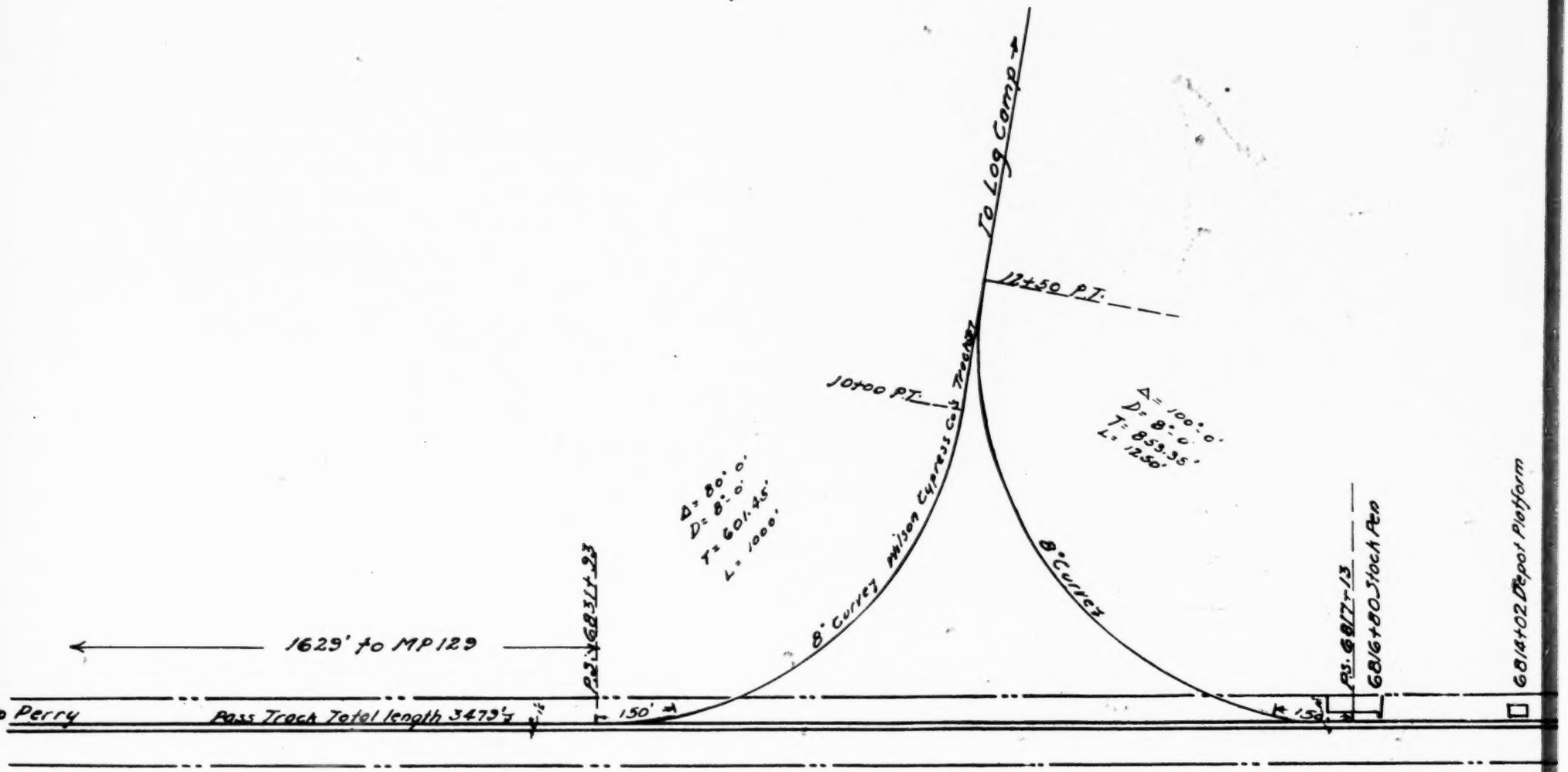
Witnesses: R. K. Bachelder, K. O. Reynolds.

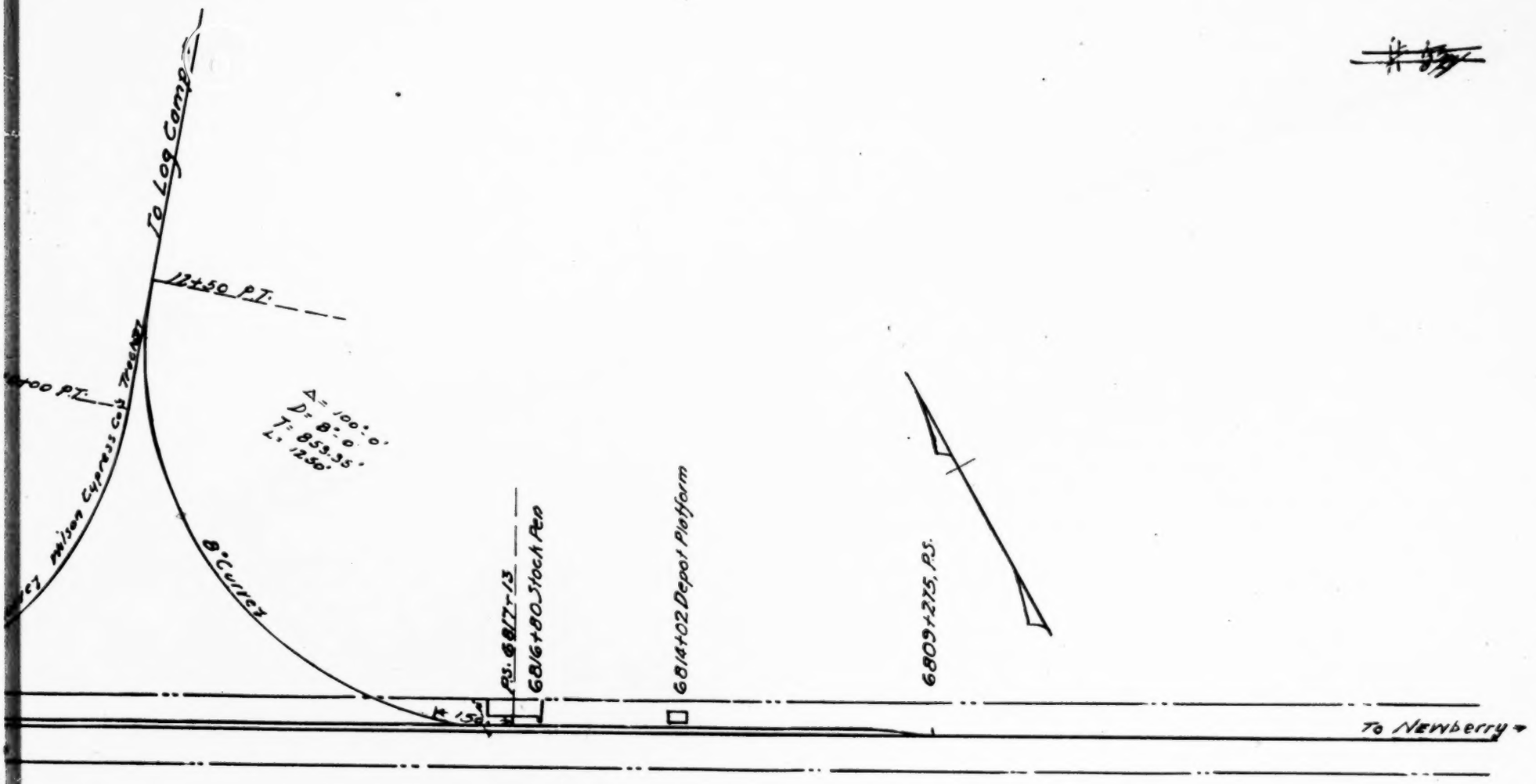
[fol. 412] Approved: D. M. Lamden, Engineer Maintenance of Way.

Approved: F. B. Langley, Superintendent.

Approved: —— ——, General Superintendent Transportation.

Approved: O. H. Puze, General Superintendent.


To Log Comp →
12+50 P.I.
10+00 P.I.
Δ = 100° 0'
D = 8° 0'
T = 859.35'
L = 1250'
Δ = 80° 0'
D = 8° 0'
T = 601.45'
L = 1000'
8° Curve
Mulson Cypress Co. Tract
8° Curve
1629' to MP 129
P.I. 68+83 Lt 23
68/17+13
68/6+80 Stock Pen
68/4+02 Depot Platform
← To Perry
Pass Track Total length 3473'
150'
150'



A.C.L.R.R.CO 414

PRO. LOCATION OF WILSON CYPRESS COMPANY'S TRACKS NEAR HINIS FLA

SCALE 1"=200 FT. JAN. 12, 1926

OFFICE OF E. M. OF W. JACKSONVILLE, FLA

9977-69

Approved: —— ——, General Supt. Motive Power.

Approved as to form: Geo. W. Davis, counsel.

Approved: J. N. Brand, Assistant General Manager.

Know all men by these presents, that the Wilson Cypress [fol. 413] Company, a corporation created and existing under the laws of the State of Florida, as Principal, and Standard Accident Insurance Company, Detroit, Michigan, a Corporation, as Surety, are held and firmly bound unto the Atlantic Coast Line Railroad Company in the full and just sum of Ten Thousand Dollars ($10,000.00) lawful money of the United States, to the payment whereof well and truly to be made we hereby bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals, this 22nd day of March, A. D. 1926.

The condition of the above obligation is such that

Whereas, the Wilson Cypress Company has entered into an agreement with the Atlantic Coast Line Railroad Company, dated the 22nd day of March, A. D. 1926, with reference to the movement of logs from Hines in Dixie County, Florida, over the line of the Atlantic Coast Line Railroad Company; and

Whereas by the ninth paragraph of said agreement the Principal has agreed to furnish to the said Railroad Company a good and sufficient bond in the penalty of Ten Thousand Dollars, ($10,000.00), conditioned for the faithful performance of the Principal of all of the obligations of the agreement and to indemnify the said Railroad Company as in said agreement set out:

Now, therefore, if the said Principal shall well and truly perform all of the Obligations in said Agreement contained, to be performed by the Principal, and shall indemnify and save harmless the said Railroad Company as in said agreement set out, then this obligation shall be void, otherwise to remain in full force and virtue.

Wilson Cypress Company, by John G. MacPherson, President. Attest: A. A. Corman, Secretary. (Seal.) Standard Accident Insurance Company, by R. B. Shields, Attorney-in-fact. Attest: I. B. Waters, Attorney-in-fact. (Seal.)

(Here follows map, side folio 414)

[fol. 415] EXHIBIT 32

I. C. C. Docket 18364

Witness: F. H. Wilson

Wilson Cypress Company, Palatka, Florida, October 19, 1926

Total Capital Assets Wilson Cypress Company, per January 31, 1926, Balance Sheet

Machinery & Equipment	$380,376.16
Buildings	308,638.04
Logging Outfit	287,047.23
Floating Outfit	41,868.54
Autos & Trucks	14,027.39
Live Stock	449.00
Office Equipment	6,031.09
Blackwater Camp—Preliminary	46,121.36
Oldtown Camp—Preliminary	87,089.79
Locomotive Shed	1,899.36
Log Car Equipment	2,650.41
Land—Mill Site	26,200.00
	1,202,398.37

Timber standing in Dixie, Lafayette and Taylor Counties—Approximately two hundred and fifty million feet.

Total Number Employees

Palatka	320
Dixie County	200
Blackwater Camp	60
	580
Population depending on industry	2,900

Actual Weekly Pay Rolls

Palatka	$7,922.45
Logging Camps	6,108.41
	14,030.86
Avg. Mill & Camps	7,015.43

[fol. 416] Wilson Cypress Company, Palatka, Florida, October 19th, 1926

Increase in Wilson Cypress Company's Capital Assets February 1, 1922, to February 1, 1926

This increase represents Capital outlay covering costs of changes and additions to our Plant and Equipment to enable us to increase our productions and take care of the additional life of our operation in manufacturing our holdings in Dixie, Lafayette and Taylor Counties.

	Feb. 1, 1922	Feb. 1, 1926	Increase
Autos & Trucks	$3,382.55	$14,027.39	$10,644.84
Buildings	154,455.68	308,638.04	154,182.36
Logging Outfit	119,911.51	287,047.23	167,135.72
Mill Site	22,670.00	26,200.00	3,530.00
Live Stock	7,522.78	449.00	.....
Machy. & Equip.	125,887.97	380,376.16	254.488.19
Office & Equip.	3,590.25	6,031.09	2,440.84
	437,420.74	1,022,768.91	592,421.95
Less decrease in live stock			7,073.78
Net increase			$585,348.17

In addition to the above outlay of 585,348.17 in Capital Assets, we suffered a very heavy loss caused by a five months shut down of our Saw Mill during a very favorable selling period. The only reason for this shut down being because of the time required for making changes and additions we deemed necessary to enlarge our plant in order to take care of our timber in above counties. The minimum loss based on our Use & Occupancy Insurance at $500.00 per day would represent a further loss of $65,000.00.

[fol. 417] EXHIBIT 33

STATE OF FLORIDA,
—— County:

This contract, made and entered into in duplicate this 19th day of December, A. D. 1918, by and between United States Railroad Administration, W. G. McAdoo, Director General of Railroads, Atlantic Coast Line, party of the first part, hereinafter called Railroad, and Putnam Lumber Company, a corporation organized and existing under and

by virtue of the laws of Wisconsin, party of the second part, hereinafter called Lumber Company.

Whereas Lumber Company owns about 210,000 acres of virgin timber in Taylor County, Florida, the bulk of which is located northeast of Clara, Taylor County, Florida, a station on the line of Railroad known as the Perry Branch of Railroad, which timber the Lumber Company proposes to cut into logs and desires the Railroad thereafter to transport as logs cut from said timber from the certain track hereinafter mentioned to be constructed near Clara, Florida, over the lines of railroad known as Perry Branch, and J&SW Branch to a certain track heretofore constructed at Milldale, Florida which is the eastern terminus of the said J&SW Branch line of Railroad, at which point the train on which said logs were transported is to be delivered to Lumber Company for unloading, and

Whereas, Lumber Company has built or proposes to build a spur track leading from the said side track to be constructed near Clara, into the woods and into the logging camp, and desires the right to connect the said spur track to the side track near Clara, to the end that cars from Railroad may be carried by the Lumber Company into the woods for loading and thereafter returned and delivered to said Railroad on the side track to be constructed as aforesaid, near Clara, which service is to be performed at the sole expense of Lumber Company.

Whereas, the parties hereto have agreed upon the terms hereinafter set forth.

Now therefore, this agreement witnesseth: That, for and in consideration of the covenants and agreements hereinafter set forth and contained to be mutually kept and performed, and in further consideration of the sum of One Dollar, by each of the parties hereto to the other paid, the receipt of which is hereby acknowledged, the said parties do hereby mutually covenant and agree each with the other as follows; to-wit:

First: Railroad, for its part, covenants and agrees that it will at its own cost and expense furnish the necessary material and labor to construct and maintain side track near Clara, hereinbefore mentioned, from the switch point to the clearance point.

Railroad Company further agrees that it will and it does hereby grant to the said Lumber Company the right to connect track of the Lumber Company to and with the side track to be constructed near Clara.

Second. Railroad further agrees that it will furnish for the service contemplated by this contract, a sufficient number of cars to enable the Lumber Company to load and ship a minimum of forty (40) loaded logging cars every other day (Sundays and legal holidays excepted), from the said point near Clara, during the life of this agreement, and [fol. 418] that it will furnish an engine and the necessary crew to move the same, and that it will deliver the said cars upon the side track near Clara at the rate of forty cars every other day (except Sundays and legal holidays).

The Railroad further agrees that when said cars shall have been placed by it upon the said side track aforesaid near Clara, that the Lumber Company shall have, and is hereby granted the right to take the same, and to move them under its own power, and in charge of its own crews over the spur or woods track hereinbefore referred to, into the woods and logging camp of the Lumber Company, for the purpose of loading them, said cars to be loaded by the Lumber Company in the woods, the Lumber Company furnishing, at its own cost, all necessary stanchions and other appliances for the purpose of properly securing the lading on the cars, and when loaded, to be returned by the Lumber Company, under its own power, and in charge of its own crews, and delivered to the Railroad by placing the same upon the track to be built as aforesaid near Clara, Florida, all within forty eight hours of the time that said train is placed on said track by the Railroad as aforesaid. Upon return of said cars loaded with logs as aforesaid, Railroad agrees that it will accept delivery of the train made up thereof on said side track near Clara, and that it will move the said train from the said side track over its line to Milldale, Fla., which is the eastern terminus of the J&SW Branch which with the Perry Branch of the Railroad is the route over which the log train service herein referred to is to be performed, said movements to be made as hereinbefore contemplated, to-wit—at the rate of forty loaded cars every other day (Sundays and legal holidays excepted). Upon arrival of said train at Milldale, Fla., Lum-

ber Company will promptly at its sole cost and expense, unload said logs from the cars in said train, and re-deliver to Railroad the cars made empty, in ample time to enable Railroad to make the schedule hereinbefore provided for which said time it is hereby mutually agreed shall not exceed twenty four hours from the time said train is delivered by the Railroad at Milldale. After the cars in said train shall have been unloaded by Lumber Company, Railroad agrees that it will take the said cars with its own crews and under its own power, and return the same to said track near Clara, for re-loading, by the Lumber Company as hereinbefore set forth, and that it will thereafter continue the schedule movement of said logs at said rate of forty carloads every other day (Sundays and legal holidays excepted), Railroad reserving the right to itself to exercise the option at any time it may desire to reduce the number of cars in any train or trains of logs from forty loaded cars to thirty loaded cars, throughout the life of this contract. It is understood and mutually agreed that the time limit fixed for the loading and return of the cars to be furnished by the Railroad from the woods camp, where the timber will be cut, and also the time for unloading and re-delivering said cars at Milldale, Florida, are both of the essence of this contract, and that the limit herein fixed is made necessary in order to carry out the schedule movement desired by the lumber company and agreed to by the Railroad herein.

Third. The Railroad further agrees that it will publish, post, and file, as required by law, and will charge the Lumber Company thereunder, a tariff fixing the rate for the transportation of logs from said side track near Clara, Florida, to Milldale, Florida, said rate to apply to the trains to be moved as provided hereinbefore under this contract.

In consideration of the premises the Lumber Company agrees

Fourth. That Lumber Company will at its own cost and expense furnish all material and labor for and under the supervision of Railroad will construct and maintain that part [fol. 419] of the side track to be built near Clara beyond the clearance point. It being understood and agreed mutually that that part of said side track lying on right of

way of Railroad shall belong to Railroad and that part beyond right of way line shall belong to Lumber Company.

That it will, at its own proper cost and expense, construct and thereafter maintain a spur or woods track, to be connected with the side track of the Railroad to be built near Clara, Florida, as aforesaid, leading from thence into the timber of the Lumber Company, and that it will take said cars when placed by the Railroad on the said side track near Clara for loading as aforesaid, and will move the same into the woods over its spur or woods track, under its own power and in charge of its own crews, and will, at its own risk, cost and expense, load the logs cut as aforesaid, upon said logging cars; that it will, at its own cost, furnish all necessary stanchions and other appliances for properly fastening the lading thereon in accordance with the requirements of the Railroad, and that it will load and return said train to the said side track near Clara within forty eight hours from the time at which it was placed there by the said Railroad as aforesaid. And the Lumber Company further agrees that in loading said cars with logs, it will in no case load the same beyond the capacity of said cars. The Lumber Company further agrees that when said woods track is completed, it will equip and maintain the same in proper condition for the safe operation of the cars of the Railroad thereover, and that it will provide the necessary engines, enginemen and crews for the purpose of moving said cars into the woods and return the same to the siding as aforesaid. The Lumber Company further agrees that when said loaded cars shall have been placed by the Railroad on the track at Milldale, as aforesaid, that said cars shall be unloaded and re-delivered to the Railroad on said track at Milldale within twenty four hours from the time at which they were placed there by the said Railroad, the service to be performed by Lumber Company at its cost and expense.

Fifth. The Lumber Company further agrees that it will pay to the Railroad for the transportation of said logs as aforesaid from said siding near Clara, Florida, to Milldale, Florida, at the rates to be published and filed by the Railroad (idler cars to be paid for at the minimum fixed in said tariff), and further agrees that it will furnish for transportation, at the said rate, as hereinbefore set forth, a train

to consist of forty loaded cars every other day during the life of this contract (Sundays and legal holidays excepted). If idler cars are used in moving said logs, the Lumber Company agrees that they shall be loaded or arranged in accordance with the rules or requirements of the Railroad.

It is expressly understood and agreed by and between the parties hereto: That the minimum aforesaid is necessary in order to justify the establishment and maintenance of the rate hereinbefore referred to, to be fixed, published and filed as aforesaid and that said minimum is to apply throughout the entire cut of logs of the Lumber Company as aforesaid, during the life of this contract, except as provided for in the second article herein.

Sixth. The Lumber Company further agrees that it will, and it hereby assumes full responsibility for the care and condition of the cars of the Railroad aforesaid, while the said cars are in possession of the Lumber Company on the woods track leading to its timber camp; or on the track at Milldale, and the Lumber Company hereby covenants and agrees that it will pay to the Railroad the amount of any injury, loss or damage to said cars while in its possession as aforesaid.

Seventh. The Lumber Company further agrees that it will promptly pay to the Railroad all freight and demurrage charges due for the movement of said logs, or for the detention of its cars whereon the same are loaded, for [fol. 420] a period greater than that permitted in the proper and lawful tariffs of Railroad, governing the same. For the purpose of computing the demurrage, it is hereby agreed that the cars shall be deemed to have been placed for loading when the same are delivered by the Railroad upon siding to be constructed near Clara, Florida, as aforesaid, and shall be deemed placed for unloading when delivered upon the track at Milldale, Florida.

Eighth. The Lumber Company further agrees that it will execute a good and sufficient bond, with corporate surety to be approved by the Railroad, in the penal sum of Ten Thousand Dollars, said bond to run to the Railroad and to be conditioned so as to guarantee to the Railroad the full and complete performance by the Lumber Company of all of the covenants and obligations herein by the Lumber

Company undertaken and assumed, and so as to indemnify the Railroad against loss, costs and damages by reason of any act of malfeasance or negligence on the part of the Lumber Company, or its employees, in connection with the operations of the trains provided for in this contract after delivery of said trains to the Lumber Company, for handling as aforesaid, and at all times while said trains are in the care and under the control of the said Lumber Company.

Ninth. It is mutually covenanted and agreed by and between the parties hereto: That, if at any time during the continuance of this contract, the mill of the Lumber Company at Milldale, Florida, shall be damaged or destroyed by fire, or otherwise, or if any accident shall happen to the machinery of the same, so that the Lumber Company shall be forced to shut down the same fore repairs or in event of a strike on the part of the employees of the Railroad, or in the event that either the Railroad or the Lumber Company, for any unavoidable cause, shall be temporarily prevented from performing its part of this contract, then such party may give reasonable notice to the other party, requiring as of its right, the temporary suspension of the performance of this contract for a definite and reasonable period to be named in such notice; and thereupon, the performance of this contract shall be temporarily suspended for the period named in such notice; provided, however, that such suspension shall not, in any event, exceed six months at any one time.

Tenth. It is further mutually covenanted and agreed by and between the parties hereto: That this contract is made pursuant to and is intended to be subject to, all of the laws of the United States, and the State of Florida thereto applicable, and that any change, amendment, alteration, or cancellation hereof, or any part hereof, deemed, required, or rendered necessary by any such law of the United States, or of the State of Florida, or by virtue of any judgment or order of a Court or Commission of competent jurisdiction, shall not be deemed a breach of the terms and conditions of this agreement.

Eleventh. It is further mutually understood and agreed: That this contract shall take effect and become operative

on the 20th day of December, 1918, and shall thereafter continue in force and effect until terminated by either party hereto by the giving to the other party of thirty days' written notice of the intention to terminate this contract.

It is hereby mutually understood and agreed that if, during the continuance of this contract, possession and control of the railroad of Atlantic Coast Line Railroad Company is relinquished by the United States Railroad Administration, then said Company shall be substituted herein as the party of the first part and shall be entitled to all the rights and subject to all the obligations herein provided for as to said party of the first part.

[fol. 421] In witness whereof, the parties hereto have caused this agreement to be executed in duplicate the day and year first above written.

United States Railroad Administration, W. G. Mc Adoo, Director General of Railroads, Atlantic Coast Line Railroad, by Lyman D. Nano, Federal Manager. Putnam Lumber Company, by Wm. O'Brien, Prst. Attest: A. J. Marsh, Secretary. (Seal.)

Witness: G. W. Smithers, E. C. Hammond, W. L. Fleishel, T. B. Keith.

Approved: C. J. Murchison, General Superintendent.

Approved: H. O. McAuteen, District Superintendent.

Approved as to location: H. B. Laird, Engineer of Roadway.

Approved as to form: J. L. Doggett, Division Counsel.

The foregoing contract is hereby approved and adopted this 13th day of May, 1919.

Atlantic Coast Line Railroad Company, by I. R. Kenly, President.

Attest: J. B. Post, Jr., Assistant Secretary. (Seal Atlantic Coast Line Railroad Company, Incorporated ——.)

[fol. 422] Form S-735-A

Tax Paid on Original

The Ætna Casualty and Surety Company

Hartford, Connecticut

Certificate of Authority of Resident Assistant Secretary

Know all Men by these presents, that V. J. Armstrong has been and is hereby appointed Resident Assistant Secretary of The Ætna Casualty and Surety Company, of Hartford, Connecticut, at Jacksonville, Fla., and as such Resident Assistant Secretary has power and authority to affix the seal of the Company to, and attest on behalf of the Company, any and all bonds and undertakings, and all bonds and undertakings sealed and attested by him, when signed by a duly appointed Resident Vice-President, shall be as valid and binding upon the Company as if said bonds and undertakings had been sealed and attested by the Secretary.

This appointment is made under and by authority of the following By-Laws adopted by the Board of Directors of the Company at a meeting duly called and held on the 28th day of December, 1911.

Article 8. Resident Officers, Attorneys-in-Fact and Agents

Section 1. The President, any Vice-President or the Secretary may from time to time appoint Resident Vice-Presidents, Resident Assistant Secretaries, Attorneys-in-Fact and Agents to represent and act for and on behalf of the Company, and either the President, any Vice-President, the Secretary or the Board of Directors may at any time remove any such Resident Vice-President, Resident Assistant Secretary, Attorney in-Fact or Agent and revoke the power and authority given him.

Section 3. Resident Assistant Secretaries may, subject to the provisions and limits named in their certificate of authority, affix the seal of the Company to and attest on behalf of the Company any and all bonds and undertakings and other writings obligatory in the nature of a bond, and may bind the Company thereby as fully and to the same

extent as the Secretary or any other Officer could bind it; such bonds and undertakings, however, to be signed and executed in every instance by a duly appointed Resident Vice-President.

In Witness Whereof, The Ætna Casualty and Surety Company has caused these presents to be signed by its Secretary, and its corporate seal to be hereto affixed, this 13th day of December, A. D., 1917.

The Ætna Casualty and Surety Company, by D. H. Gage, Secretary. (Seal.)

State of Connecticut,
County of Hartford, ss:

On this 13th day of December, A. D. 1917, before me personally came D. H. Gage, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Hartford, State of Connecticut; that he is the Secretary of The Ætna Casualty and Surety Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

E. M. Ather, Notary Public. My Commission Expires Jan. 31, 1922.

[fol. 423] Form S-735-A

Tax Paid on Original

The Ætna Casualty and Surety Company

Hartford, Connecticut

Certificate of Authority of Resident Assistant Secretary

Know all Men by these presents, that V. J. Armstrong has been and is hereby appointed Resident Assistant Secretary of The Ætna Casualty and Surety Company, of Hartford, Connecticut, at Jacksonville, Fla., and as such Resident Assistant Secretary has power and authority to affix the seal of the Company to, and attest on behalf of

the Company, any and all bonds and undertakings, and all bonds and undertakings sealed and attested by him, when signed by a duly appointed Resident Vice-President, shall be as valid and binding upon the Company as if said bonds and undertakings had been sealed and attested by the Secretary.

This appointment is made under and by authority of the following By-Laws adopted by the Board of Directors of the Company at a meeting duly called and held on the 28th day of December, 1911.

Article 8. Resident Officers, Attorneys-in-Fact and Agents

Section 1. The President, any Vice-President or the Secretary may from time to time appoint Resident Vice-Presidents, Resident Assistant Secretaries, Attorneys-in-Fact and Agents to represent and act for and on behalf of the Company, and either the President, any Vice-President, the Secretary or the Board of Directors may at any time remove any such Resident Vice-President, Resident Assistant Secretary, Attorney in-Fact or Agent and revoke the power and authority given him.

Section 3. Resident Assistant Secretaries may, subject to the provisions and limits named in their certificate of authority, affix the seal of the Company to and attest on behalf of the Company any and all bonds and undertakings and other writings obligatory in the nature of a bond, and may bind the Company thereby as fully and to the same extent as the Secretary or any other Officer could bind it; such bonds and undertakings, however, to be signed and executed in every instance by a duly appointed Resident Vice-President.

In Witness Whereof, The Ætna Casualty and Surety Company has caused these presents to be signed by its Secretary, and its corporate seal to be hereto affixed, this 13th day of December, A. D., 1917.

The Ætna Casualty and Surety Company, by D. N. Gage, Secretary. (Seal.)

State of Connecticut,
County of Hartford, ss:

On this 13th day of December, A. D. 1917, before me personally came D. N. Gage, to me known, who, being by me

duly sworn, did depose and say: that he resides in the City of Hartford, State of Connecticut; that he is the Secretary of The Ætna Casualty and Surety Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

E. M. Ather, Notary Public. My Commission Expires Jan. 31, 1922. (Seal.)

[fol. 424] The Ætna Casualty and Surety Company

Endorsement

(Certificate of Change of Name.)

Know all Men by these Presents, That the name of The Ætna Accident and Liability Company has been changed to The Ætna Casualty and Surety Company by resolution of the General Assembly of the State of Connecticut and operative on the third of May, 1917, by its acceptance by vote of the stockholders of said Company at a meeting warned and held for that purpose and the filing of a certified copy of such vote of acceptance with the Secretary of State, and that all appointments of Resident Vice Presidents, Resident Assistant Secretaries and Attorneys in Fact to sign and execute bonds and undertakings in accordance with their Certificates of Authority issued in the name of The Ætna Accident and Liability Company remain unimpaired and the authority of said Resident Vice Presidents, Resident Assistant Secretaries and Attorneys in Fact to sign and execute bonds and undertakings in accordance with said Certificates of Authority and in the name of The Ætna Casualty and Surety Company is hereby confirmed.

In Witness Whereof, The Ætna Casualty and Surety Company has caused these presents to be signed by its Secretary, and its corporate seal to be hereto affixed this 29th day of October, A. D. 1917.

The Ætna Casualty and Surety Company, by D. G. Stone, Secretary. (Seal.)

STATE OF CONNECTICUT,
County of Hartford, ss:

On this 29th day of October, A. D. 1917, before me personally came D. G. Stone, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Hartford, State of Connecticut; that he is the Secretary of The Ætna Casualty and Surety Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; and that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

E. M. Ather, Notary Public. My Commission Expires Jan. 3, 1922. (Seal.)

Form 1546.

[fol. 425] The Ætna Accident and Liability Company, Hartford, Connecticut

Morgan G. Bulkeley, President

Duplicate Bond

Know all Men by these Presents, that we, Putnam Lumber Company a corporation created and existing under and by virtue of the laws of the State of Wisconsin, as Principal, and Ætna Casualty and Surety Company, a corporation created and existing under and by virtue of the laws of Connecticut, duly authorized by law to do business in the State of Florida, as Surety, are held and firmly bound unto the United States Railroad Administration, W. G. McAdoo, Director General of Railroads, Atlantic Coast Line Railroad, in the just and full sum of Ten Thousand Dollars, to the payment whereof well and truly to be made we do hereby bind ourselves, our successors and assigns, jointly and severally firmly by these presents, or if said Administration should, during the life of this bond, relinquish the properties of the Atlantic Coast Line Railroad Company, a corporation created and existing under and by virtue of the laws of the State of Virginia, then and in that event shall Principal and Sureties hereinabove mentioned be and become held and firmly bound unto the said Atlantic

Coast Line Railroad Company under the provisions herein contained, instead of unto the said Administration. Sealed with our seals and dated this Nineteenth day of December, A. D. 1918.

Whereas, Putnam Lumber Company, Principal, herein did on the Nineteenth day of December, 1918, enter into contract with the United States Railroad Administration, W. G. McAdoo, Director General of Railroads, Atlantic Coast Line Railroads, hereinafter called Railroad, under the terms of which said contract Railroad agreed to haul on trains to be furnished by it at the rate and the amount therein specified logs to be cut by the Putnam Lumber Company from its timber lands near Clara, Florida, thence to Milldale, Florida, and whereby the said Railroad further agreed that the said Putnam Lumber Company should have, and it was granted the right to take the cars to be furnished by the said Railroad into the woods to its timber lands for the purpose of loading, provision also being contained in said contract that said cars would be delivered to said Putnam Lumber Company on tracks of Railroad at Milldale, Florida, for the purpose of unloading, all subject to the terms, limitations and conditions in said contract set forth, the said contract being hereby referred to as a part hereof, and

Whereas, the eighth section of said contract contemplated and stipulated that the said Putnam Lumber Company should furnish to the said Railroad a bond in the penal sum of Ten Thousand Dollars, conditioned so as guarantee to the Railroad the full and complete performance by the Lumber Company of all of the convenants and obligations in said contract set forth and undertaken by the said Lumber Company, and so as to indemnify the said Railroad against all loss, costs and damages by reason of any act of malfeasance on the part of the Lumber Company, or its employees, in connection with the operation of the trains provided for in said contract after delivery thereof to the Lumber Company, for handling as set out in said contract, and at all times while said trains are in the care and under the control of the said Lumber Company.

Now, therefore, the condition of this obligation is such: That, if the said Putnam Lumber Company, Principal herein, shall during the continuance of said contract well

and truly perform all of the covenants and obligations in said contract by said Lumber Company undertaken and assumed, and shall also indemnify and save harmless the said Railroad against any and all loss, costs and damages, by [fol. 426] reason of any act of malfeasance or negligence on the part of the said Lumber Company or its employees occurring in connection with the operation of the trains provided for in said contract, after delivery of said trains to the Lumber Company for handling, as in said contract set out, and at all times while said trains are in the care and under the control of the said Lumber Company then, and in that event, the bond shall be void, otherwise to remain in full force and virtue.

Putnam Lumber Company, by Wm. O. Brien, President. Attest: M. L. Fleishel. Attest: A. J. Muth, Secretary. Ætna Casualty and Surety Company, by W. M. McOrary, Resident Vice-President. Attest: M. L. Fleishel. Attest: V. J. Armstrong, Resident Assistant Secretary.

[fol. 427] EXHIBIT 34

Atlantic Coast Line Railroad Company

File No. 39,159

Jacksonville, Fla., May 30, 1923. be.

Putnam Lumber Company, Mr. M. L. Fleishel, Vice Pres., Jacksonville, Fla.

DEAR SIR: I have your letter May 24th and am returning herewith duplicate-original of contract dated February 26th, 1923 between our companies covering logging train service between Cross City and Milldale. I have noted carefully your remarks as to the provision for a minimum train of 40 cars which you state was not intended. My file covering the correspondence leading up to the execution of this agreement very clearly indicates that 40 cars per train was decided upon and desired.

In regard to the ability of locomotives assigned to this service being able to handle a train of 40 cars. At the

present time we have in service on the J. & S. W. locomotives that cannot handle 40 cars of logs, but within a very short time all of the locomotives in this service will be capable of handling 40 or more cars, therefore, I do not think it necessary to change the contract.

We will, of course, not bill you for failure to furnish a train of 40 cars on the dates we supply a locomotive not capable of handling 40 cars. In other words if we should furnish today a locomotive capable of handling only 30 cars and 30 cars are moved into Milldale we will not bill you with the 10 cars or for failure to furnish the full 40 cars.

Yours truly, O. H. Page, General Superintendent.

[fol. 428] EXHIBIT 34

Form 701

Atlantic Coast Line Railroad Company

File No. 39,159

Jacksonville, Fla., May 30, 1923. bc.

Putnam Lumber Company, Mr. M. L. Fleishel, Vice Pres., Jacksonville, Fla.

DEAR SIR: I have your letter May 24th and am returning herewith duplicate-original of contract dated February 26th, 1923 between our companies covering logging train service between Cross City and Milldale. I have noted carefully your remarks as to the provision for a minimum train of 40 cars which you state was not intended. My file covering the correspondence leading up to the execution of this agreement very clearly indicates that 40 cars per train was decided upon and desired.

In regard to the ability of locomotives assigned to this service being able to handle a train of 40 cars. At the present time we have in service on the J. & S. W. locomotives that cannot handle 40 cars of logs, but within a very short time all of the locomotives in this service will be capable of handling 40 or more cars, therefore, I do not think it necessary to change the contract.

We will, of course, not bill you for failure to furnish a train of 40 cars on the dates we supply a locomotive not capable of handling 40 cars. In other words if we should furnish today a locomotive capable of handling only 30 cars and 30 cars are moved into Milldale we will not bill you with the 10 cars or for failure to furnish the full 40 cars.

Yours truly, O. H. Page, General Superintendent.

[fol. 429] This agreement, made and entered into, in duplicate, this 26th day of February, 1923, by and between Atlantic Coast Line Railroad Company, a corporation under the laws of the State of Virginia, hereinafter called the Railroad, party of the first part, and Putnam Lumber Company, a corporation organized and existing under the laws of the State of Wisconsin, hereinafter called the Lumber Company, party of the second part,

Witnesseth: That

Whereas the Lumber Company owns approximately 500 million feet of pine and cypress standing timber in Lafayette and Dixie Counties, Florida, near Cross City, Dixie County, on the line of the Atlantic Coast Line Railroad Company between Wilcox and Perry in said State, which said timber the Lumber Company proposes to cut into logs and thereafter cause the pine logs to be transported in train load lots to Milldale, Florida, and the cypress logs to be transported to McGirt's Creek, Florida, at which points the said logs will be manufactured into Lumber, and in connection with the transportation of said pine logs desires the Railroad to transport same from a side track hereinafter mentioned, to be constructed near Cross City, over the lines of the Railroad known as the Perry Branch and the Jacksonville and South Western Branch, to a certain track already constructed by the Lumber Company at Milldale, Florida, at which point the logs are to be delivered to the Lumber Company for unloading; and,

Whereas the Lumber Company has built, or proposes to build, a spur track leading from the said side track to be constructed near Cross City into the woods and into the logging camp of the Lumber Company, and desires the right to connect said spur track to the said side track near

Cross City, so that cars from the Railroad may be carried by the Lumber Company into the woods for loading and thereafter returned and delivered to the Railroad on the side track at Cross City.

[fol. 430] Now, therefore, for and in consideration of the promises and agreements hereinafter contained, to be mutually kept and performed, and in further consideration of the sum of One Dollar ($1.00) by each of the parties to the other paid, the parties hereto have mutually covenanted and agreed as follows:

1. The tracks at Cross City, Florida, on which cars are to be delivered to and received from the Lumber Company hereunder, are constructed or to be constructed and thereafter maintained in accordance with contract dated December 18th, 1922 between the parties hereto. The interchange of cars is to be effected on side tracks between the points marked "A", "B", "C", and "D" on the blue print hereto attached as a part hereof, the tracks between said points hereinafter referred to as the "side track."

2. The Railroad will furnish to the Lumber Company on the said side track, flat cars to be loaded by the Lumber Company with logs cut from the timber aforesaid. The Railroad agrees to permit the Lumber Company, at the sole cost and expense of the Lumber Company, to equip one hundred and seventy (170) of the Railroad's flat cars with permanent stanchions of the type known as Phœnix stake pockets. The Railroad will furnish one hundred and seventy (170) cars of eighty thousand (80,000 lbs.) capacity. The cost and expense of installing and maintaining the permanent stanchions on the cars is to be borne by the Lumber Company and it is understood and agreed that the said cars are not to be considered as permanently assigned to use by the Lumber Company but that in time of car shortage the Railroad will furnish to the Lumber Company such proportion of said one hundred and seventy (170) cars as is in accordance with the law and rules and regulations governing during time of such car shortage. The Lumber Company assumes all risk of damage to the said stanchions by falling off, loss or otherwise, and will at its sole cost and expense make such repairs and—or renewals to the said stanchions as may be necessary in order that

the same may be safe for service. The Railroad shall in no event be obligated hereunder to furnish cars in excess of the one hundred and seventy (170) herein provided for.

[fol. 431] 3. The Railroad agrees that when cars shall have been placed by it on the said side track near Cross City, the Lumber Company shall have the right to move such cars under its own power and in charge of its own crews over the spur track hereinbefore referred to, into the woods and logging camp of the Lumber Company for the purpose of loading same, provided the Lumber Company constructs and thereafter maintains the said spur track in condition satisfactory to the proper officers of the Railroad. The Lumber Company will, as soon as practicable, load the cars at its sole cost and expense, furnishing all necessary stanchions and other appliances for the purpose of properly securing the loads on the cars, and when so loaded will promptly return the said cars under its own power and in charge of its own crews and deliver same to the Railroad in trains of not less than forty (40) cars per day, Sundays and holidays excluded, by placing the said cars on the side track near Cross City, above referred to. Upon return of said cars loaded with logs as aforesaid, the Railroad agrees that it will accept delivery of the train made up thereof on the side track aforesaid and will move the same in trains of a minimum of forty (40) cars from the said side track over its line to Milldale, Florida, and will there deliver the cars on the side track of the Lumber Company. Such movement shall be at the rate of not less than forty (40) cars per day, Sundays and holidays excluded. Upon arrival of the cars at Milldale, Florida, the Lumber Company will promptly, at its sole cost and expense, unload the logs from the cars and re-deliver to the Railroad the empty cars as soon as practical after same are delivered by the Railroad at Milldale.

4. It is mutually understood and agreed that the prompt loading and return by the Lumber Company of the cars to be furnished by the Railroad for the woods camp, where the timber will be cut, and also prompt unloading and redelivering by it of the cars at Milldale are both of the essence of this contract and that such prompt handling is

necessary in order to carry out the schedule movement herein provided for.

[fol. 432] 5. In the event any train crew shall be furnished hereunder by the Railroad, whether in pursuance to the schedule herein provided for or at the call of the Lumber Company, and such crew shall not, for a reason for which the Lumber Company is responsible, be used, then the Lumber Company will promptly on demand reimburse the Railroad for the amount paid such crew not used.

6. The Lumber Company agrees to and does hereby assume full responsibility for the care and condition of the cars of the Railroad while the said cars are in the possession of the Lumber Company at Cross City or at Milldale, and in the event damage shall occur to said cars while in the possession of the Lumber Company, adjustment in relation thereto shall be subject to the rules of the American Railway Association, Division V, Mechanical, covering interchange of cars between Railroads. The Lumber Company will promptly report to the Railroad the destruction of any car while in the possession of the Lumber Company, demurrage charges to cease upon receipt of such notice by the Railroad. Should the Lumber Company fail to report loss of any such car then the demurrage tariffs will continue and remain in force in the same manner as if the car were in good condition for use and operation.

7. The Lumber Company agrees to pay promptly to the Railroad, at rates provided for in current tariffs, all freight and demurrage charges due for the movement of said logs or for the detention of cars for a period greater than that permitted in the proper and lawful tariffs of the Railroad governing same.

8. Cars shall be deemed delivered to the Lumber Company when placed on the designated tracks at Cross City or Milldale and detached from the engine by which they were moved. Cars shall be deemed delivered to the Railroad when placed in trains by the Lumber Company on such tracks and attached or coupled to the engine or engines by which they are to be moved to destination, or when proper bill of lading has been issued therefor.

9. The Lumber Company agrees to furnish to the Railroad a good and sufficient bond with a corporate surety

to be approved by the Railroad, in the penal sum of Ten [fol. 433] Thousand Dollars ($10,000.), conditioned for the faithful performance by the Lumber Company of all of the obligations and agreements herein contained to be kept and performed by the Lumber Company, and so as to indemnify the Railroad against loss, cost and damage by reason of any act of malfeasance or negligence on the part of the Lumber Company or its employees in connection with the handling of the cars after delivery of the same to the Lumber Company, and at all times while the said cars are in the care and under the control of the Lumber Company.

10. If at any time during the continuance of this agreement the mill of the Lumber Company at Milldale, Florida, shall be damaged or destroyed by fire, or otherwise, or if any accident shall happen to the machinery of the same so that the Lumber Company shall be forced to shut down same for repairs, or in the event of a strike on the part of the employees of the Railroad, or in the event that either the Railroad or the Lumber Company for any unavoidable cause shall be temporarily prevented from performing its part of this agreement the said party may give reasonable notice to the other party, requiring as of right the temporary suspension of the performance of this agreement for a definite and reasonable period to be named in said notice, and thereupon the performance of this agreement shall be temporarily suspended for the period named in the notice.

11. The Lumber Company agrees that it will, so far as it lawfully may, cause all rail shipments of lumber manufactured by the Lumber Company from the pine or cypress standing timber aforesaid consigned by the Lumber Company to points reached by lines of the Railroad or its connecting lines or roads, to be routed over the lines of the Railroad and its connections unless the charges for such shipments over the lines of the Railroad and its connections are higher than the lawfully published rates for like transportation of similar shipments over the lines of other transportation companies.

12. This agreement shall become effective on the 25th day of August, 1922, and shall thereafter continue in force

[fol. 434] and effect until terminated by either party hereto, by giving to the other party thirty days' notice in writing of the intention to terminate this agreement.

In witness whereof, the parties hereto have caused these presents to be duly executed the day and year first above written.

Atlantic Coast Line Railroad Company, by Lyman S. Mano, Executive Vice-President. Attest: J. B. Post, Jr., Assistant Secretary. (Seal.) Witnesses: Geo. L. Mitchell, E. T. Hinnant. Putnam Lumber Company, by Wm. O'Brien, Prst. Attest: A. J. Marsh, Secretary. Witnesses: A. H. Shoemaker, Agnes P. Johnson, witnesses as to signature of A. J. Marsh, E. Crosby, as to O'Brien, Bernice Stokes.

Approved: J. N. Brand, Assistant General Manager.

Approved: J. Murchison, General Superintendent.

Approved: H. B. Laird, Engineer. M. & W.

Approved: H. O. McAllister, District Superintendent.

Approved as to Form: Robt. M. Davis, General Attorney.

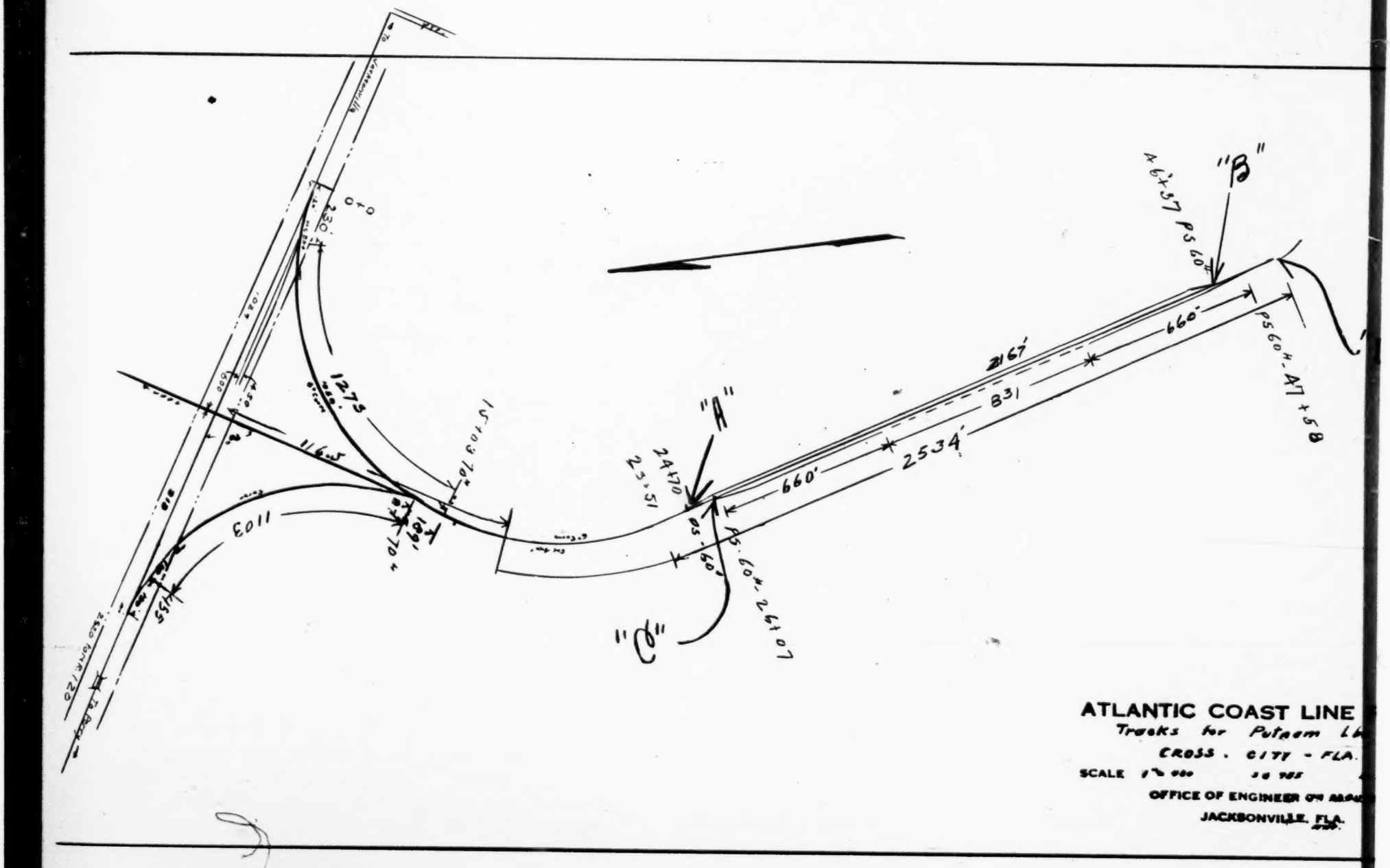
Approved as to Form: Doggett, Chuster & Doggett, Div. Counsel.

[fol. 435] Know all men by these presents, that Putnam Lumber Company, a corporation organized and existing under the laws of the State of Wisconsin, as Principal, and The Ætna Casualty and Surety Company, a corporation organized under the laws of the State of Conn. as Surety, are held and firmly bound unto Atlantic Coast Line Railroad Company in the full and just sum of Ten Thousand Dollars, ($10,000.00), lawful money of the United States, to the payment whereof well and truly to be made we hereby bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals, this 28th day of February, 1923.

The condition of the above obligation is such that:

Whereas the Putnam Lumber Company has entered into an agreement with Atlantic Coast Line Railroad Company,



ATLANTIC COAST LINE

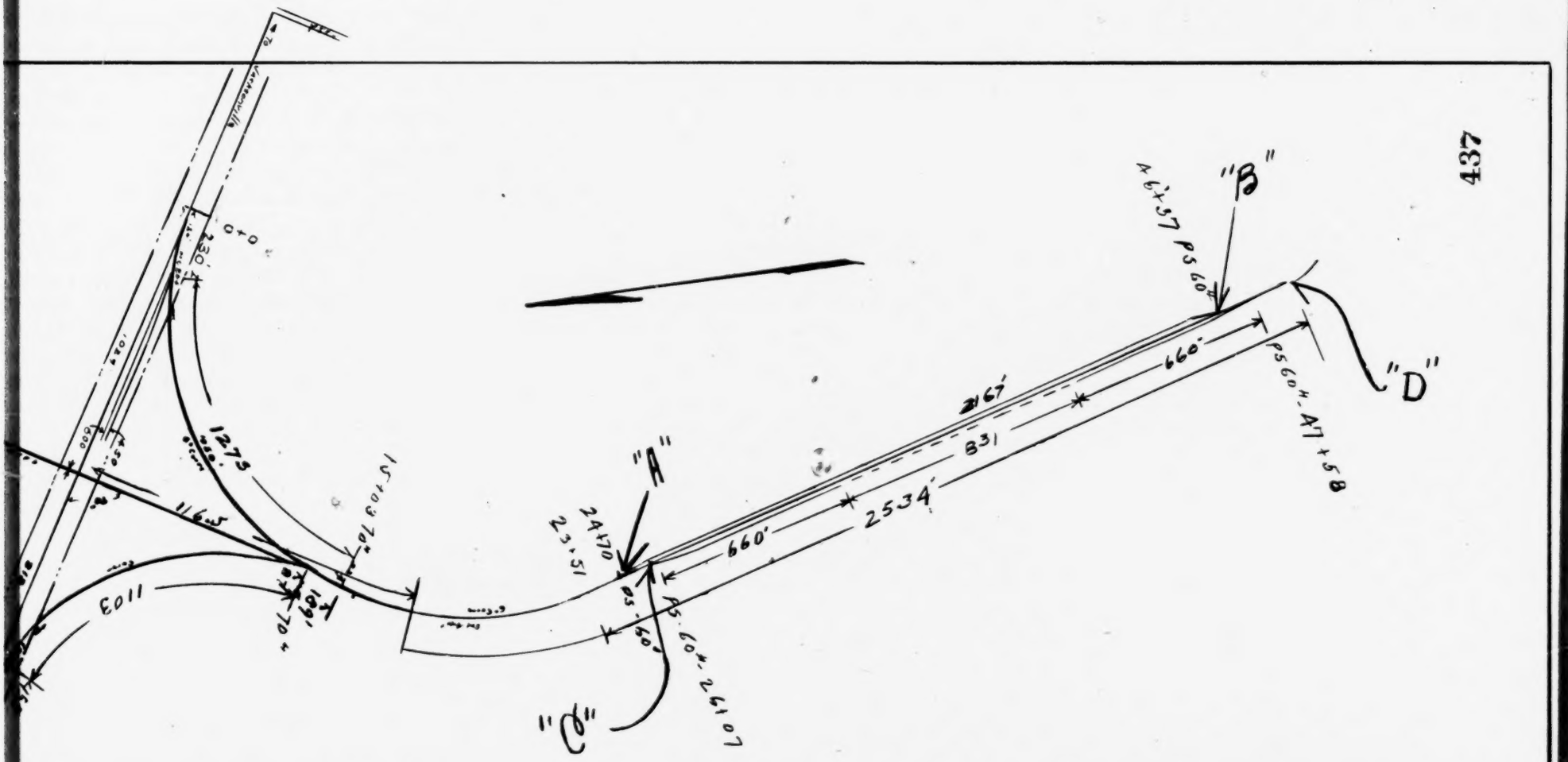
Tracks for Putnam L

CROSS . CITY - FLA.

SCALE 1" = 100' 50 100

OFFICE OF ENGINEER OF ROAD

JACKSONVILLE, FLA.



ATLANTIC COAST LINE R. R. CO.

Tracks for Putnam Lbr Co

CROSS CITY - FLA.

SCALE 1" = 100' 50 785 5-22-34

OFFICE OF ENGINEER ON ROADWAY

JACKSONVILLE, FLA.

8488-33

dated the 26th day of February, 1928, with reference to the movement of logs from Cross City, in Dixie County, Florida, over the line of the Atlantic Coast Line Railroad Company; and

Whereas by the sixth paragraph of said agreement the Principal has agreed to furnish to the said Railroad Company a good and sufficient bond in the penalty of Ten Thousand Dollars ($10,000.00), conditioned for the faithful performance by the Principal of all of the obligations of the said agreement and to indemnity the said Railroad Company as in said agreement set out;

Now, therefore, if the said Principal shall well and truly perform all of the obligations in said agreement contained, to be performed by the Principal, and shall indemnify and save harmless the said Railroad Company as in said agreement set out, then this obligation shall be void, otherwise to remain in full force and virtue.

Putnam Lumber Company, by Wm. O'Brien. Prst. Witnesses as to signature of A. J. Marsh: A. H. Shoemaker, Agnes P. Johnson. Attest: A. J. Marsh, Secretary. As to O'Brien: E. Crosby, Bernice Stokes. The Ætna Casualty and Surety Company, by W. M. McEvoy, Resident Vice President. Attest: J. B. Post, Resident Assistant Secretary. Attest: O.

[fol. 436] Atlantic Coast Line Railroad Company

File No. 39159.

Jacksonville, Fla., May 4th, 1923. wtm.

Putnam Lumber Company, Mr. M. L. Fleishel, General Manager, Jacksonville, Florida.

Dear Sir: Referring to the correspondence we have had in regard to movement of logs from Cross City:

I am returning herewith, for your file, the duplicate-original of agreement, dated February 26th, 1923, effective as of August 25th, 1922, between our company and your company, covering special log train service between Jacksonville (Milldale) and Cross City, Florida.

Yours truly, O. H. Page, General Superintendent.

(Here follows map, side folio 437)

[fol. 438] EXHIBIT 35

Sheet 1

Timber Available of Putnam Lumber Company, Dec. 31, 1925

Pine	649,987,317
Cyprus	306,829,651
Hardwood	142,184,000
	1,099,000,968

Investment of Putnam Lumber Company Dec. 31, 1925

At Milldale	$29,405.36
At Ortega	478,521.09
In Boats	49,786.11
Logging Equipment	352,829.62
Logging Railroad	189,458.88
Logging Townsite at Cross City, etc.	131,720.30
	$1,231,721.36

Number of men on Milldale pay roll	459
Number of men on Ortega pay roll	250
Total	709

[fol. 439] Sheet 2

Memorandum of Pine Logs Shipped by the Putnam Lumber Company to Milldale, Florida

Year	No. cars	Feet	Freight pd.	Avg. per M.	Avg. per car
1919	5,512	25,765,759	$95,218.97	$3.69	$17.27
1920	7,304	29,933,068	123,461.74	4.12	16.90
1921	6,407	26,293,072	127,173.99	4.84	19.85
1922	11,540	43,802,678	212,561.73	4.85	18.42
1923	7,686	37,573,706	155,526.05	4.13	20.23
1924	7,510	39,190,690	156,268.43	3.96	20.81
1925	7,451	38,980,736	150,850.42	3.86	20.24
	53,410	241,539,709	$1,021,061.33	$4.22	$19.12

Memorandum of Cypress Logs Shipped by the Putnam Lumber Company to Ortega, Florida

Year	No. cars	Feet	Freight pd.	Avg. per M.	Avg. per car
1922	.....	18,168,902	$50,509.25	$2.78	.....
1923	.....	32,121,571	89,731.38	2.79	.....
1924	.....	30,460,089	86,367.81	2.83	.....
1925	.....	24,990,328	71,058.44	2.84	.....

Memorandum of Cypress Logs Shipped by the Putnam Lumber Company to Ortega, Florida

Year	No. cars	Feet	Freight pd.	Avg. Per M	Avg. per Car
1922	....	18,168,902	$50,509.25	$2.78	....
1923	....	32,121,571	89,731.38	2.79	....
1924	....	30,460,089	86,367.81	2.83	....
1925	....	24,990,328	71,058.44	2.84	....

[fol. 440] EXHIBIT 36

I. C. C. Docket 18364

Witness: Reeves

Statement showing list of saw mills and planing mills on Atlantic Coast Line Railroad in Georgia, as published in A. C. L. R. R. Circular D-4593, Issue of April 9th, 1926

Alapaha
J. H. Bishop
Nix Lumber Co.
Sutton Lumber Co.
Albany
W. A. Stokes
General Lumber Co.
Reynolds Bros. Lumber Co.
Allenhurst
Dunlevie Lumber Co.
Argyle
Garrant Lumber Co.
Bainbridge
Elberta Crate Co.
Farrar Lumber Co.
William Shirley
Boston
Kirby Planing Mill Co.
J. H. Sherrod & Son
Braganza
Braganza Lumber Co.
Brookfield
N. L. Coursey
Cairo
Kelly-Clark Lumber Co.
J. A. Sherrod
G. W. Whaley
D. D. Perkins

EXHIBIT 36—Continued

J. E. Dison
Camilla
Dison & Hudson
J. B. Ryner
T. G. Tyson
Climax
Climax Lumber Co.
J. E. Davies
Cyrene
Battle & Hodges
Dixie
N. B. Jones
Doctortown
Fowler-McCann Lumber Co.
Donaldsonville
John Williams Lumber Co.
Durden
Blue Springs Lumber Co.
Faceville
Lovelace-Young Lumber Co.
W. H. Wells.
Glory
G. W. Sizermore
Hansell
Tyson Lumber Co.
Homerville
J. D. Green
Jakin
R. F. Fuller
Jesup
Gaubert Lumber Co.
Ludowici
Bladen Tie & Lumber Co.
A. T. Roberson
W. F. Wells
Manor
Robert Peagler
Meigs
Morris Bros. Lumber Co.
Newell
Buie & Littlefield
[fol. 441] Ochlocknee
J. D. Stanfill
Mason Lumber Co.
Caldwell & Bushee
Pelham
A. Whaley & Brother
Quitman
Barfield Lumber Co.
W. S. Barwick
J. O. McDonald
D. B. Shealey
F. M. Shore
South Georgia Lumber Co.
R. R. Lowry
Saffold
Harvard & Bryant
Savannah
Bright-Brooks Lumber Co.
Savannah Lumber Co.
Savannah Planing Mill Co.
Whatley Lumber Co.
Reynolds & Manly Lumber Co.
G. S. Patton Lumber Co.
Screven
Crawford & Chauncey
Stockton
W. H. Faucett
Thomasville
W. E. Beverly Lumber Co.
P. J. McCollum Lumber Co.
Kirby Planing Mill Co.
Tifton
Tifton Remilling Co.
Goodman-Golden Co.
Ty Ty
E. J. Cottle
Valdosta
J. N. Bray & Co.
Georgia-Florida Lumber Co.
Jackson Brothers Lumber Co.
Western Lumber Co.

EXHIBIT 36—Continued

Walthourville	Ways
J. E. Wells	Liberty Lumber Co.
W. J. Roberson	W. H. Bashlor
Waycross	Whigham
Enterprise Mfg. Co.	A. S. Curry
Hebard Cypress Co.	Willacoochee
Satilla River Lumber Co.	Ladson Lumber Co.

Authority: A. C. L. R. R. Co. G. F. O. No. 8784 Circular No. D-4593.

Jacksonville, Fla., January 18th, 1927.

EXHIBIT 37

I. C. C. Docket 18364

Witness: Reeves

Statement showing list of points on Atlantic Coast Line Railroad in Georgia at which there are in operation as of January 11, 1927, saw mills or planing mills, together with names of operators and their monthly production in footage of lumber. The total production of all such mills is divided as between mills receiving their logs by various means of transportation

Manufacturing point and operator	Monthly production, in feet	Source of log supply	Means of log transportation: By truck or team, average haul—miles	Means of log transportation: By common carrier, average haul—miles
Alpha:				
J. H. Bishop	100,000	Ga.	2	
Albany:				
Brown Lumber Co.	150,000	Ga.	6	
Reynolds Bros. Lbr. Co.	1,500,000	Ga.		ACL CofGa SAL GSW&G 30
Argyle:				
Garrant Lumber Co.	600,000	Ga.	Will log over own log road, mill not yet operating, monthly production estimated.	
Bainbridge:				
William Shirley	250,000	Ga.	1	
Blackshear:				
Davis Randall	75,000	Ga.	2½	
A. M. Johnson	100,000	Ga.	3	

Boston:				
J. H. Sherrod & Sons	100,000	Ga.	4	
Brunswick:				
Georgia Veneer & Package Co.	500,000	via water		
Lang Planing Mill	20,000	Ga.		ACL Sou AB&A 30
Brunswick Lumber Co.	150,000	Ga.	15	
Hercules Powder Co.	400,000	via water		
[fol. 443] Cairo:				
J. A. Sherrod	140,000	Ga.	1	
G. W. Whaley	100,000	Ga.	3	
P. J. McCollum	200,000	Ga.	7	
Camilla:				
Dison & Hudson	150,000	Ga.	2	
T. G. Tyson	200,000	Ga.	5	
B. F. Maney	100,000	Ga.	1	
Climax:				
Climax Lumber Co.	220,000	Ga.	8	
Dixie:				
N. B. Jones	100,000	Ga.	4	
Durden:				
Blue Springs Lumber Co.	75,000	Ga.	2	
Doctortown:				
Case-Fowler Lumber Co.		Ga.		Via water and——miles over ACL
Faceville:				
Lovelace-Young Lbr. Co.	800,000	Ga.	6	
Folkston:				
J. H. Johnson	75,000	Ga.	1	
Fort Mudge:				
J. J. Williams Co.	150,000	Ga.	2	
Glory:				
G. W. Sizermore	100,000	Ga.	7	
Homerville:				
B. Oliver	200,000	Ga.	5	

Exhibit 37—Continued

Manufacturing point and operator	Monthly production, in feet	Source of log supply	Means of log transportation: By truck or team, average haul—miles	Means of log transportation: By common carrier, average haul—miles
Jesup:				
Garbutt Lumber Co.	300,000	Ga.		ACL & Sou 45
Ludowici:				
Bladen Tie & Lumber Co.	125,000	Ga.	2	
W. F. Wells	100,000	Ga.	3	
Meigs:				
Morris Bros. Lumber Co.	100,000	Ga.	4	
[fol. 444] Newell:				
Buie & Littlefield	40,000	Ga.	2	
Ochlocknee:				
J. D. Stanfill	150,000	Ga.	4	
Mason Lumber Co	200,000	Ga.	8	
Tyson Lumber Co.	250,000	Ga.	6	
Pelham:				
A. Whaley & Brothers	75,000	Ga.	6	
Quitman:				
Barfield Lumber Co.	800,000	Ga.		South Ga Rwy 1
F. M. Shore & Co.	300,000	Ga.	18	
W. S. Barwick	150,000	Ga.	2	
South Georgia Lbr. Co.	200,000	Ga.	6	
Savannah:				
Atlantic Tie & Timber Co	100,000			ACL SAL S&A CofGa 150
Pennwaller Lumber Co.	60,000	Planing mill only		
Pierpont Mfg. Co.	600,000	Ga. & S. C.		ACL SAL S&A CofGa 50

Reynolds-Manley Lbr. Co	1,000,000	Ga. & S. C.		ACL SAL S&A CofGa 50
Savannah Lumber Co.	85,000	Ga.		ACL SAL S&A Sou and Cof Ga 30
Savannah Planing Mill Co.	150,000	Ga.		SAL S&A Cof Ga 50
Savannah River Lumber Co.	1,500,000	Ga. & S. C.	Via water	.....
Southern Box & Lumber Co.	40,000	Ga.		SAL Ry 15
Screven:				
Crawford & Chauncey	100,000	Ga.	5	.....
[fol. 445] Sylvester:				
Simmerly & Lawrence	100,000	Ga.	6	.....
Thomasville:				
P. J. McCollum Lbr. Co.	240,000	Ga.	7	.....
Kirby Planing Mill Co.	200,000	Planing mill only		.....
Tifton:				
Tifton Remilling Co.	200,000	Planing mill only		.....
Goodman-Golden Lbr. Co.	150,000	Ga.	7	.....
N. L. Coursly	200,000	Ga.	7	.....
Ty Ty:				
E. J. Cottle	80,000	Ga.	6	.....
Valdosta:				
Baker & Co.	75,000	Ga.	1	.....
J. N. Bray & Co.	300,000	Ga.	12	.....
Jackson Bros. Lbr. Co.	800,000	Ga.		ACL G&F GS &F 25
Walthourville:				
W. I. Roberson	20,000	Ga.	2	.....
Waycross:				
Enterprise Mfg. Co.	100,000	Planing mill only		.....
Hiers Planing Mill Co.	100,000	Planing mill only		.....

Exhibit 37—Continued

Manufacturing point and operator	Monthly production, in feet	Source of log supply	Means of log transportation: By truck or team, average haul—miles	Means of log transportation: By common carrier, average haul—miles
Whigham:				
A. S. Curry	150,000	Ga.	3	
Ways:				
R. P. Baily	150,000	Ga.	1	
Willacoochee:				
Ladson Lumber Co.	220,000	Ga.	4	

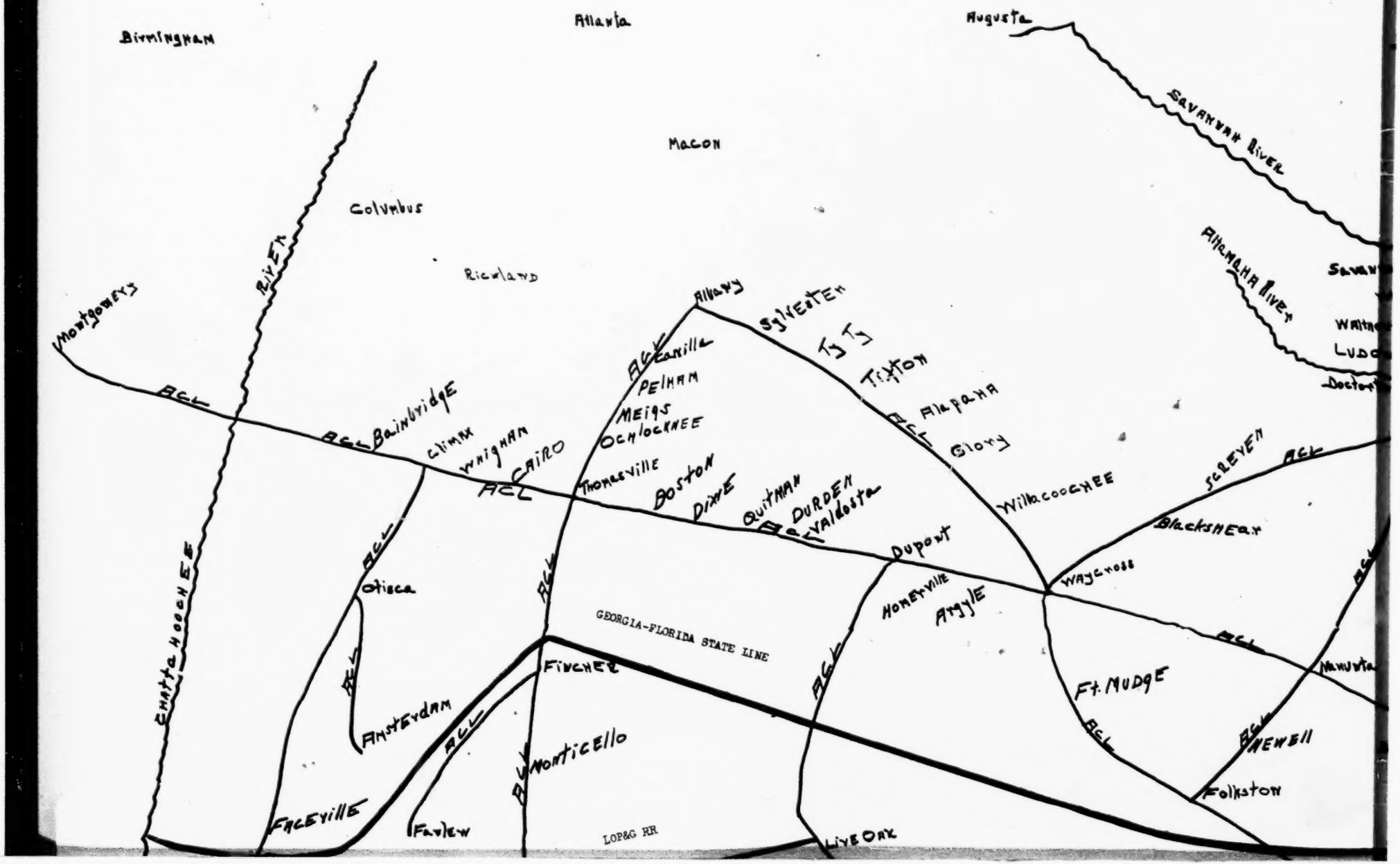
[fol. 446]

Summary

No. of mills	Production, in feet, per month: Mills logging over common carrier	Mills logging by truck or team	Mills logging via water	Planing mills (no logging)	Argyle mill (estimated)	Total
64	5,395,000	7,010,000	2,400,000	660,000	600,000	16,065,000

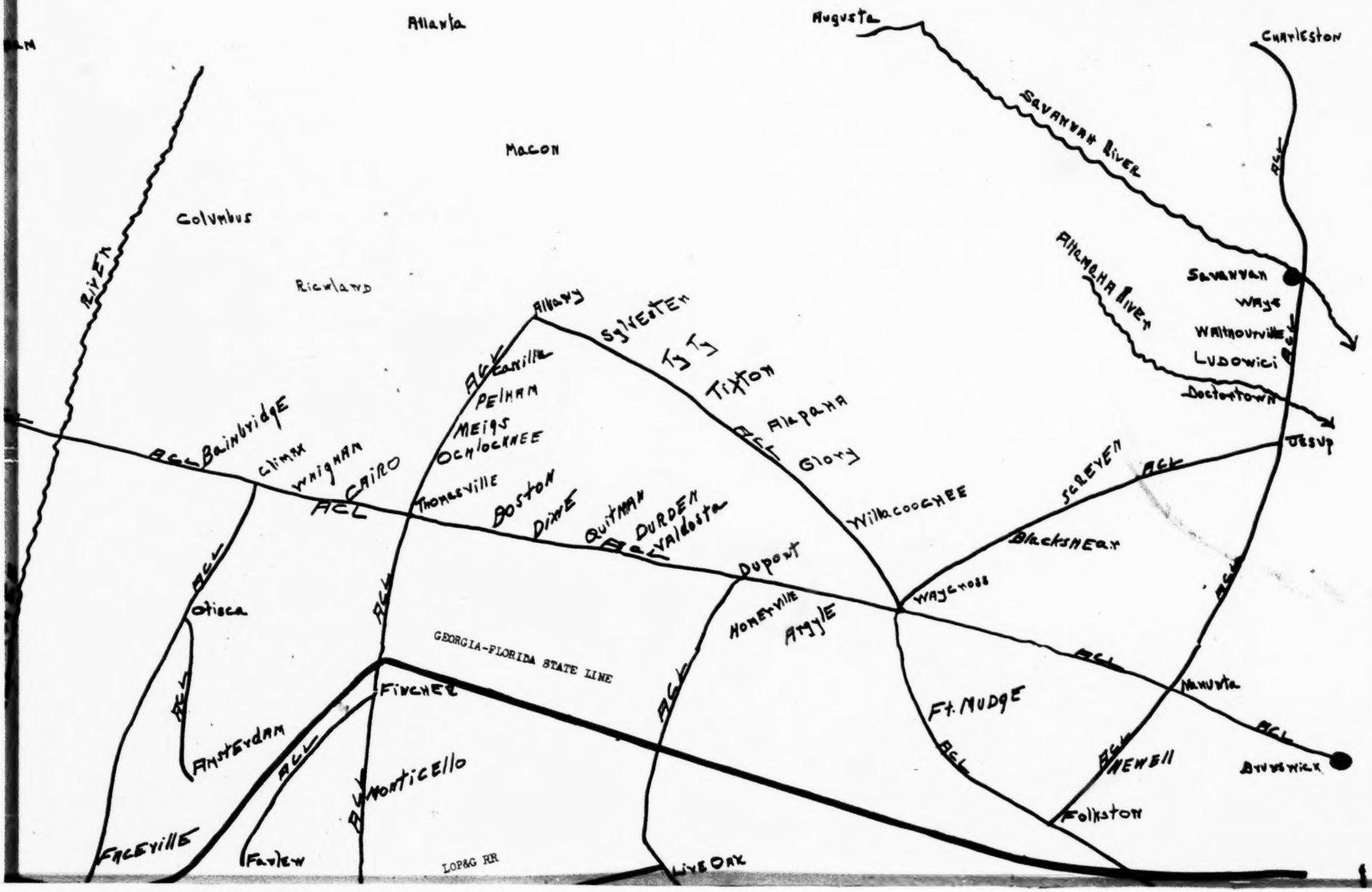
(Here follow Exhibit 38, map of A. C. L. R. R. lines in Georgia, side folio 447)

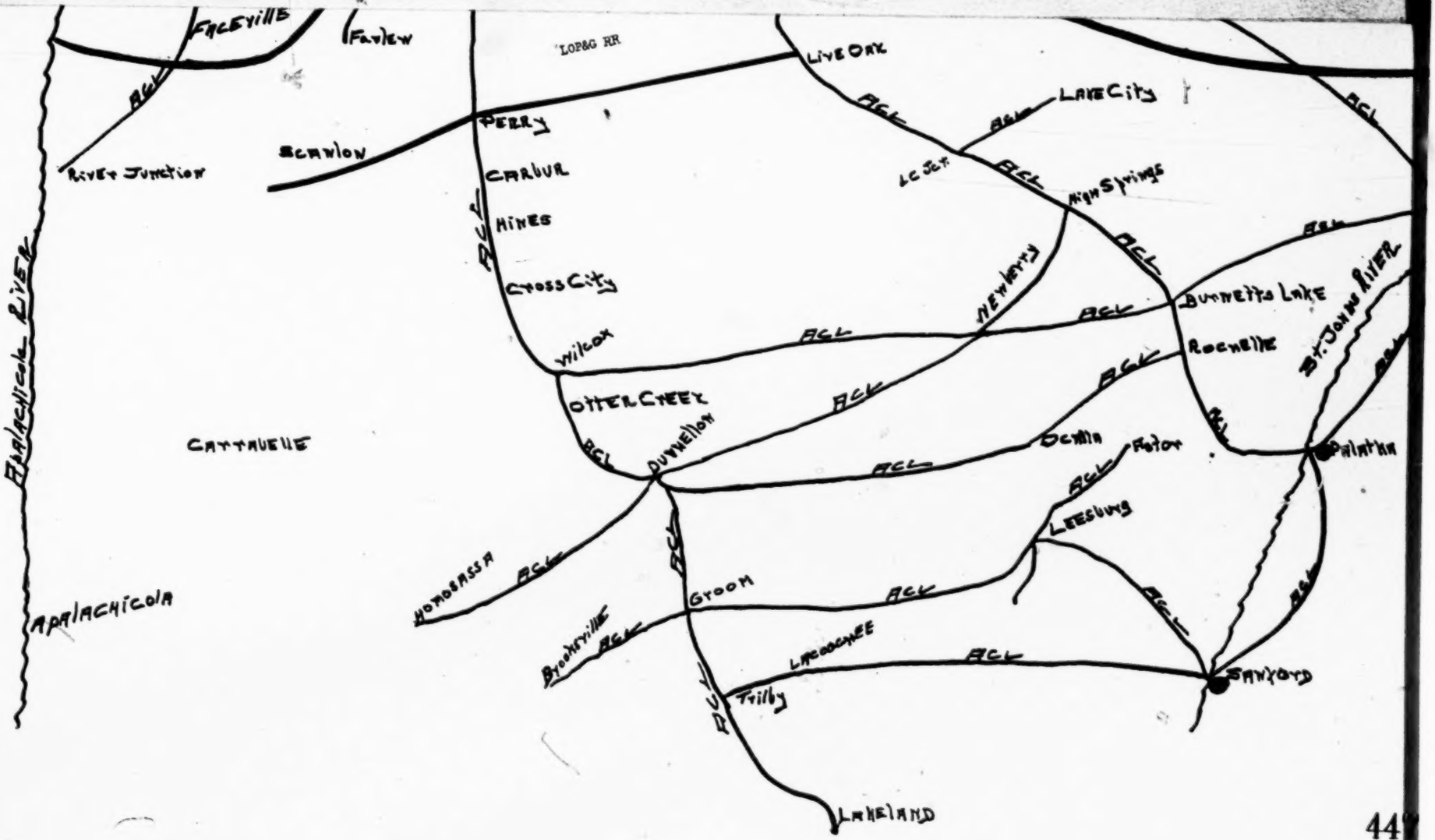
Map showin all lines of Atlantic Coast Line Railroad in Georgia with list of all stations thereon at which are located sawmills or planing mills and portion of lines of same Railroad in Florida

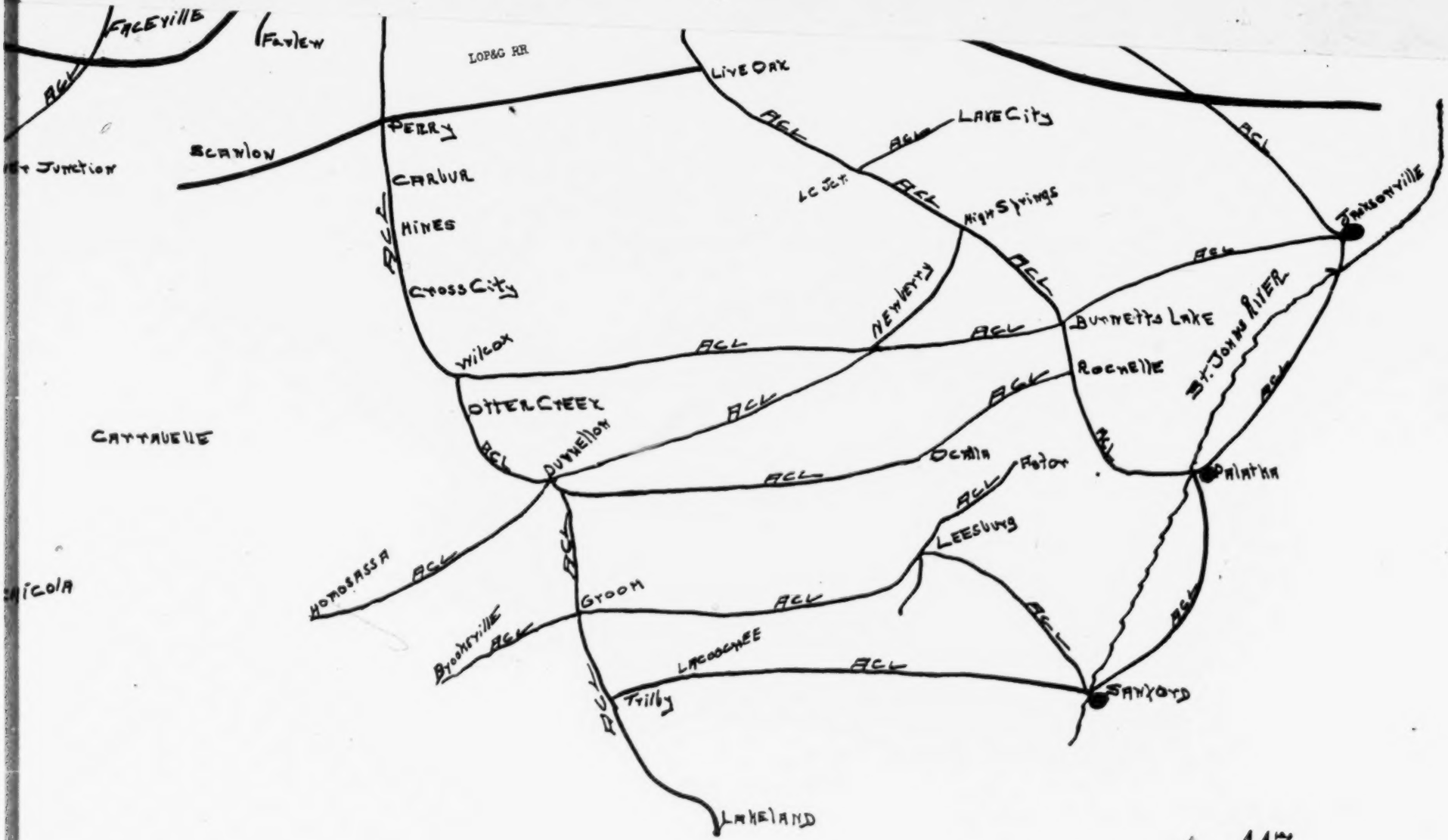


Map showing all lines of Atlantic Coast Line Railroad in Georgia with list of all stations thereon at which are located sawmills or planing mills and portion of lines of same Railroad in Florida

ICC Docket 18364
Exhibit 38
Witness




Faceville
Fairview
L&N RR
Live Oak
Lake City
ACL
Perry
Scanlon
River Junction
Carbur
Hines
Cross City
Lc Jct.
High Springs
Newberry
Bunnetts Lake
St. Johns River
Wilcox
Rochelle
Otter Creek
Dunnellon
Ocala
Astor
Palatka
Leesburg
Homosassa
Groom
Brooksville
Lacoochee
Trilby
Sanford
Lakeland
Apalachicola River
Apalachicola
Cattahelle


FAYETTEVILLE
FAIRLEW
ACL
LOP&G RR
LIVE OAK
PERRY
SCANLON
CARBUR
HINES
CROSS CITY
WILCOX
OTTER CREEK
DUNNELLON
CATTAULLE
LAKE CITY
LC JCT.
HIGH SPRINGS
NEWBERRY
BUNNELL'S LAKE
ROCHELLE
ST. JOHNS RIVER
JACKSONVILLE
PALATKA
OCKLA
ASTOR
LEESBURG
HOMOSASSA
BROOKSVILLE
GROOM
LACOOCHEE
TRILBY
SANFORD
LAKELAND

[fol. 448]

EXHIBIT No. 39

I. C. C. Docket 18364

Witness: Pettijohn

Page 1 of 4

Atlantic Coast Line Railroad Company

Statement showing the estimated cost of transporting a carload of logs from Perry to Eastport, Florida, during the month of September 1926, Costs Predicated upon Revised Exhibit No. 25

	Direct cost	Indirect percentage-cost		Total cost
A. Cost of Road Movement: Transportation —Road	$7,085.11	22.1168	$1,567.00	$8,652.11
B. Cost of Yard Handling: Maintenance of Equipment	152.52	12.3150	18.78	171.30
Transportation —Yard	682.00	45.1720	308.07	990.07
C. Cost of Depreciation: Locomotives. Maintenance of Equipment	184.56	12.3150	22.73	207.29
E. Cost of Maintenance: Locomotives. Maintenance of Equipment.	2,622.15	12.3150	322.92	2,945.07
G. Cost of Maintenance: Roadway, Maint. of Way & Structures	1,386.00	28.5101	395.15	1,781.15
	$12,112.34	.....	2,634.65	14,746.99

EXHIBIT No. 39—Continued

	Direct cost	Indirect percentage-cost		Total cost
Less Amount other traffic, 3.8%.....	460.27	.....	100.12	560.39
	$11,652.07	.....	2,534.53	14,186.60
C. Cost of Depreciation, Cars: Maintenance of Equipment	205.47	12.3150	25.30	230.77
H. Cost of Car Maintenance, Maintenance of Equipment..	1,723.00	12.3150	212.19	1,935.19
Total Operating Expenses ...$13,580.54		.....	$2,772.02	$16,352.56
Number cars loaded, 1,371.				
Average Expense per car	9.905	.....	2.022	11.9275
Average Reveune per car	.....	.....	.....	20.47
Operating Ratio..	.....	58.27	.....	
Average Expense per car	.....	.....	.....	11.93
F. Cost of car hire under contract (75 cars) $1,071.-82 divided by 1,371	.....	.....	.....	.78
I. Taxes.				1.49
Total Cost				$14.20

[fol. 449] EXHIBIT No. —

I. C. C. Docket 18364

Witness: Pettijohn

Page 2 of 4

Atlantic Coast Line Railroad Company

Statement Explaining the Differences in Direct Costs of Logs Trains as Reflected on Witness White's Exhibit No. 25 Revised and as Used by Witness Pettijohn

Item		Mr. White	Mr. Pettijohn	Decrease
A		$7,196.48	$7,085.11	$111.37
Wages paid aggregate $222.74 in excess of scheduled costs which amounts has been assigned one-half to log trains and one-half to other traffic	$111.37			
B		1,429.22	834.52	594.70
Reduction in time from six hours to four hours per day	$476.41			
Elimination of Interest	12.06			
Correction in cost per mile for locomotive repairs, 124 hours @ $20.56 per day	106.23			
C		572.02	184.56	387.46

Item		Mr. White	Mr.Pettijohn	Decrease
Elimination of Interest	381.35			
Adjusting Depreciation to 30 days instead of 1/12 of a year.	2.61			
Applying Train instead of Car mile percentage	3.50			
E.....		3,423.25	2,622.15	801.10
Decrease in repair cost per mile..	751.30			
Applying Train instead of Car mile percentage	49.80			
Add account decrease in Deduction account other traffic.....				*71.73
C		624.75	205.47	419.28
Elimination of Interest	416.50			
Adjusting to 30 days instead of 1/12 of a year.	2.78			
				$2,242.18

[fol. 450] EXHIBIT No.

I. C. C. Docket 18364

Page 3 of 4

Witness Pettijohn

Atlantic Coast Line Railroad Company

Statement Showing the Taxes Accrued During the Year Ended December 31, 1925, and the Apportionment of Taxes to a Car of Logs

#532—Railway Tax Accruals, Sch. 300 I, Page 301		6,600,000.00

Schedule 350—Page 312

Other than U. S. Government Taxes:		
Virginia	$163,700.24	
North Carolina	1,272,465.37	
South Carolina	921,730.60	
Georgia	546,605.69	
Florida	1,427,529.86	
Alabama	185,082.29	
Tennessee	150.00	
Massachusetts	13.35	
Missouri	2.57	
Ilinois	13.72	
Louisiana	6.43	
New York	26.80	
District of Columbia	34.00	
Kansas City	5.88	
Total		$4,517,366.80
U. S. Government Taxes		
Corporation Income	$1,949,456.93	
Capital Stock	131,542.00	
Tax on Telegrams	1,400.85	
Documentary Stamps	233.42	
Total		$2,082,633.20
Grand Total		$6,600,000.00

[fol. 451] EXHIBIT No.

I. C. C. Docket 18364

Page 4 of 4

Witness Pettijohn

	Total	Per cent	Taxes
Page 301, Sch. 300 I:			
Line 4, net revenue from railway operations	$29,031,576.35	.....	...
Page 312, Sch. 350:			
Line 30, Corporation Income Tax	1,949,456.93	6.715	...
6.715% of $8.54 (20.47-11.93)	.....	.....	.57
Page 707, Sch. 720:			
Line 247, Grand Total Railway Operating Expenses	$19,106,536.32	.....	...
Page 312, Sch. 350:			
Line 5—Florida	1,427,529.86	7.471	...
7.471% of 11.93=	.....	.....	.89
Average mileage of road operated:			
Page 508, Sch. 531, Line 1, System	4,890.49	.....	...
Page 904, Sch. 931, Line 1, Florida	1,843.85	37.703	...
U. S. Government Taxes other than Corporation Income Tax	133,176.27	.....	...
37.703% of 133,176.27=	50,211.45	.....	...
$50,211.45 is .2628% of $19,106,536.32			
.2628% of $11.93	.....	.....	.03
			$1.49

[fol. 452]

EXHIBIT No. 40

I. C. C. Docket 18364

Witness Pettijohn

Page 1 of 2

Statement Showing Percentage of Direct to Indirect Expenses by General Groups with the Transportation Group Subdivided as Between Road and Yard, January 1st, to August 31st, 1926

Maintenance of Way & Structures	$11,676.62	$47,279.35	$2,469.71
Maintenance of Equipment	6,884.21	78,619.38	850.20
Traffic Expenses	4,245.26	3,219.03	13,188.01
Transportation—Rail Line:			
Yard	8,443.38	28,650.07	2,947.07
Road	7,013.92	109,327.80	1,641.55
Common	16,403.25	.....	1,188.83
Total	54,666.64	267,095.63	.....
General Expenses	10,184.76	267,095.63	38.13
	$64,851.40	$267,095.63	$2,428.02

[fol. 453]

EXHIBIT No. 40

I. C. C. Docket 18364

Witness Pettijohn

Page 2 of 2

Item I-2, Exhibit No. 25

		Rail		Yard		Common
		Indirect	Direct	Indirect	Direct	Direct
371	Superintendence	.....	.....	.....	.....	$5,745.07
372	Dispatching Trs.	$2,802.52	.....	.....	.....	.....
373	Station Emplys.	.....	$29,409.11	.....	.....	.....
374	Weigh & Ins. & Dem.	.....	948.07	.....	.....	.....
376	Station Suppls.	.....	.....	.....	$12,479.58	.....
377	Ydmstrs. & Clks.	.....	2,184.41	.....	.....	.....
378	Yd. Condrs. & Bkm.	.....	.....	$7,587.09	.....	.....
379	Yd. Sw. & Sig. Tndrs.	.....	.....	180.00	.....	.....
380	Yd. Enginemen	.....	.....	.....	8,151.46	.....
382	Fuel Yard	.....	.....	.....	6,229.16	.....
385	Water Yard	.....	.....	249.65	.....	.....
386	Lubricants Yd.	.....	.....	.....	110.51	.....
387	Other Supplies	.....	.....	.....	133.14	.....
388	Eng. Hse. Equipt.	.....	.....	.....	1,998.66	.....
389	Yd. Sup. & Equip.	.....	.....	426.64	.....	.....
390	Oprg. Jt. Ter. Dr.	.....	.....	.....	1,108.53	.....

391	Termls. Cr.				1,560.97	
392	Train Enginemen		16,713.27			
394	Train Fuel		25,845.71			
397	Train Water		1,032.23			
398	Train Lubricants		567.40			
399	Train Other Supplies		492.38			
400	Train Eng. Hse. Equp.		4,539.03			
401	Trainmen		21,736.02			
402	Train Sup. & Equip.	2,568.93				
404	Signal & Intlks.	468.77				
405	Crossing Protecn.	500.72				
406	Dwbdg. Oper.		174.24			
407	Trl. & Til.	141.46				
408	Operg. Flt. Equip.		211.61			
410	Stationery & Print					1,400.14
411	Other Expenses					289.37
412	Oprg. Jt. Trks. Dr.		93.43			
413	Oprg. Jt. Trks. Cr.		875.97			
414	Insurance					498.44
415	Clearing Wrecks					1,591.69
416	Damage to Prop.					498.47
417	Damage to Stock	531.52				
418	Loss & Dam. Frt.		6,256.86			
420	Insurance to Persons					6,380.07
	Total	$7,013.92	$109,327.80	$8,443.38	$28,650.07	$16,403.25

454 EXHIBIT No. 41

I. C. C. Docket No. 18364

Statement of Uncut Timber of Brooks-Scanlon Corporation Available to Plant at Eastport, Florida, as of August 31st, 1926

In the Counties of Wakulla, Jefferson, Madison, Taylor, Lafayette, and Dixie, State of Florida

Township	Range	Cruiser's Pine	Estimate Cypress
2	3	14,330	8,318 M
4-S	2-E	15,139 M	.....
4	3	2,675	.....
2	4	71,085	24,210
3	4	115,645	7,212
4	4	20	155
5	4	9,930	350
1-N	5-E	30	.....
1-S	5-E	15	.....
2	5	23,250	.....
3	5	115,070	3,211
5	5	25,087	2,225
5	6	6,266	.....
6	6	2,734	.....
2-N	7-E	50	.....
3-N	7-E	70	.....
3-S	7-E	1,920	.....
5	7	28	.....
6	7	1,809	.....
7	7	1,128	.....
1	8	900	.....
2	8	15,470	4,765
3	8	8,895	2,435
4	8	21,970	2,555
5	8	29,545	.....
[fol. 455]			
1-S	9-E	3,390 M	.....
2	9	11,955	2,350 M
4	9	40,035	4,960
5	9	66,350	7,019

EXHIBIT No. 41—Continued

Township	Range	Cruiser's Pine	Estimate Cypress
6	9	2,085	.....
9	9	1,740	.....
10	9	15,445	.....
11	9	3,205	.....
2	10	8,070	725
3	10	3,280	200
4	10	2,160	10
5	10	35,490	5,000
6	10	94,063	.....
7	10	9,025	.....
8	10	21,108	.....
9	10	46,755	.....
10	10	51,075	275
11	10	8,000	240
12	10	6,830	.....
6	11	785	.....
9	11	2,010	.....
10	11	2,935	620
11	11	1,940	295
12	11	5,395	.....
10	12	7,740	.....
11	12	11,790	135
13	12	4,020	.....
9	13	195	.....
10	13	225	.....
10	14	10	.....
Totals		950,167 M	77,265 M

When logged the above pine and cypress (1,027,432 M) is equivalent to approximately 186,800 car-loads of logs. At the present pervailing average per car $3,922,800.00 will be paid in log freight to move the timber to the mills.

[fol. 456]

EXHIBIT No. 42

I. C. C. Docket No. 18364

Memorandum of Log Shipments and Freight Paid from Carbur and Scanlon to Eastport, Florida

Year	No. cars	Feet	Freight	Avg. freight per car	Avg. freight per M.	Avg. feet per car
1915	4,891	22,017,411	$62,920.00	$12.86	$2.85	501
1916	9,906	49,874,597	147,805.92	14.92	2.96	5,035
1917	9,352	52,618,696	140,555.56	15.03	2.67	5,626
1918	8,341	42,814,363	133,042.74	15.95	3.10	5,133
1919	7,900	37,630,140	131,423.04	16.63	3.66	4,763
1920	8,810	43,927,608	168,253.87	19.09	3.83	4,986
1921	7,580	39,854,303	173,801.53	22.85	4.37	5,256
1922	12,013	66,515,702	254,900.50	21.22	3.83	5,537
1923	12,613	69,142,154	254,481.24	20.17	3.68	5,482
1924	15,088	88,589,903	315,470.73	20.91	3.56	5,870
1925	16,017	93,305,603	331,549.71	20.70	3.55	5,825
1926	15,652	94,329,555	334,048.47	21.34	3.54	6,027
Totals	128,163	700,620,035	$2,448,253.31	$19.10	$3.49	5,467

[fol. 457] EXHIBIT No. 43

I. C. C. Docket No. 18364

Summary Property Investment of Brooks-Scanlon Corporation

	Dec. 31st, 1922	Additional investment	Aug. 31st, 1926
At Carbur, Fla.	$335,425.66	$72,410.85	$407,836.51
At Eastport, Fla.	1,320,932.03	916,994.88	2,237,926.91
At Scanlon, Fla.	.....	433,870.07	433,870.07
At Staten Island, N. Y.	320,000.00	1,580.49*	318,419.51
At Athena, Fla.	400.00	.....	400.00
Tug and Barges	.....	199,788.60	199,788.60
	$1,976,757.69	$1,621,483.91	$3,598,241.60

[fol. 458] Memorandum of Property Investment of Brooks-Scanlon Corporation at Eastport, Florida

	Dec. 31st, 1922	Additional investment	Aug. 31st, 1926
Saw Mill, Power House, Machinery	$366,131.17	$433,595.28	$799,726.45
Planing Mill, Power House & Mchy.	97,686.56	34,070.79	131,757.35
Dry Kilns	39,719.94	29,030.19	68,750.13
Dry Sorter & Cooling Shed	19,866.56	3,613.85	23,480.41
Lumber Storage Sheds	13,288.46	8,697.65	21,986.11
Lumber Yard	2,304.16	4,757.46	7,061.62
Mono-rail System	69,775.03	30,347.37	100,122.40
Terminal Railroad	63,062.61	6,447.67	69,540.28
Locomotives, Cars & Equipment.	13,659.63	9,797.35	23,456.98
Docks, Gantry, Cranes, Etc.	157,857.13	220.00	158,077.13
Boats, Lighters & Equipment	14,097.35	830.00	14,927.35
Electric Installation	11,424.36	920.51	12,344.87
Artesian Wells & Water Works.	19,821.83	7,114.93	26,936.76
Sanitary System	4,361.46	17,422.84	21,784.30
Live Stock, Wagons, Etc.	1,841.05	1,350.60*	490.45
Trucks & Autos	5,903.63	1,300.00	7,203.63
Hotel, Commissary & Sundry other building and their equipment	41,062.65	40,129.07	81,191.72
Sundry Machinery & Equipment.	6,612.58	284.70	6,897.28
Office Building & Equipment	12,803.57	4,262.34	17,065.91
White Houses	79,598.50	80,265.84	159,864.34
Negro Quarters	24,734.40	27,779.17	52,513.57
New Steel Log Cars	.....	155,862.80	155,862.80
Cline Turpentine Still	.....	21,565.67	21,565.67
Real Estate	255,319.40	.....	255,319.40
Totals	$1,320,932.03	$916,994.88	$2,237,926.91

[* Red in copy.]

Exhibit No. 43—Continued

[fol. 459] Memorandum of Property Investment of Brooks-Scanlon Corporation at Carbur, Florida

	Dec. 31st, 1922	Additional investment	Aug. 31st, 1926
Real Estate (½ interest) ...	$1,330.87	.....	$1,330.87
Main Line R. R. " ...	94,174.33	.....	94,174.33
Machine Shop & Equip. " ...	2,746.43	.....	2,746.43
Round House " ...	1,351.32	.....	1,351.32
Hotel, Boarding Houses, Commissary & Equip. " ...	7,675.18	.....	7,675.18
Sundry Buildings " ...	1,987.72	.....	1,987.72
Water Works " ...	6,848.69	.....	6,846.69
Electric Light Plant " ...	838.04	.....	838.04
Drainage System " ...	543.46	.....	543.46
White Houses	14,517.16	$13,114.08	27,661.24
Negro Quarters	9,538.65	2,522.20	12,060.85
Convict Stockade	2,377.18	.....	2,377.18
Sundry Buildings	1,344.27	525.28	1,869.55
Stable	1,775.73	.....	1,775.73
Live Stock	17,178.73	.....	17,178.73
Wagons, Carts, etc.	4,746.54	.....	4,746.54
Autos & Motor Cars	2,287.11	.....	2,287.11
Rail	14,361.92	50,323.43	64,685.35
R. R. Cars & Equipment	8,985.65	.....	8,985.65
Portable Houses, Camp Cars and Equipment	7,946.35	.....	7,946.35
Round House, Shop & Equipment	12,793.10	2,410.28*	10,382.82
Locomotives	42,888.57	5,625.56*	37,263.01
Skidders	38,758.76	.....	38,758.76
Loaders	20,236.44	.....	20,236.44
Ohio Cranes	13,751.03	.....	13,751.03
Drag Line Cranes	.....	13,931.70	13,931.70
Track Laying Machine	4,444.43	.....	4,444.43
Totals	$335,425.66	$72,410.85	$407,836.51

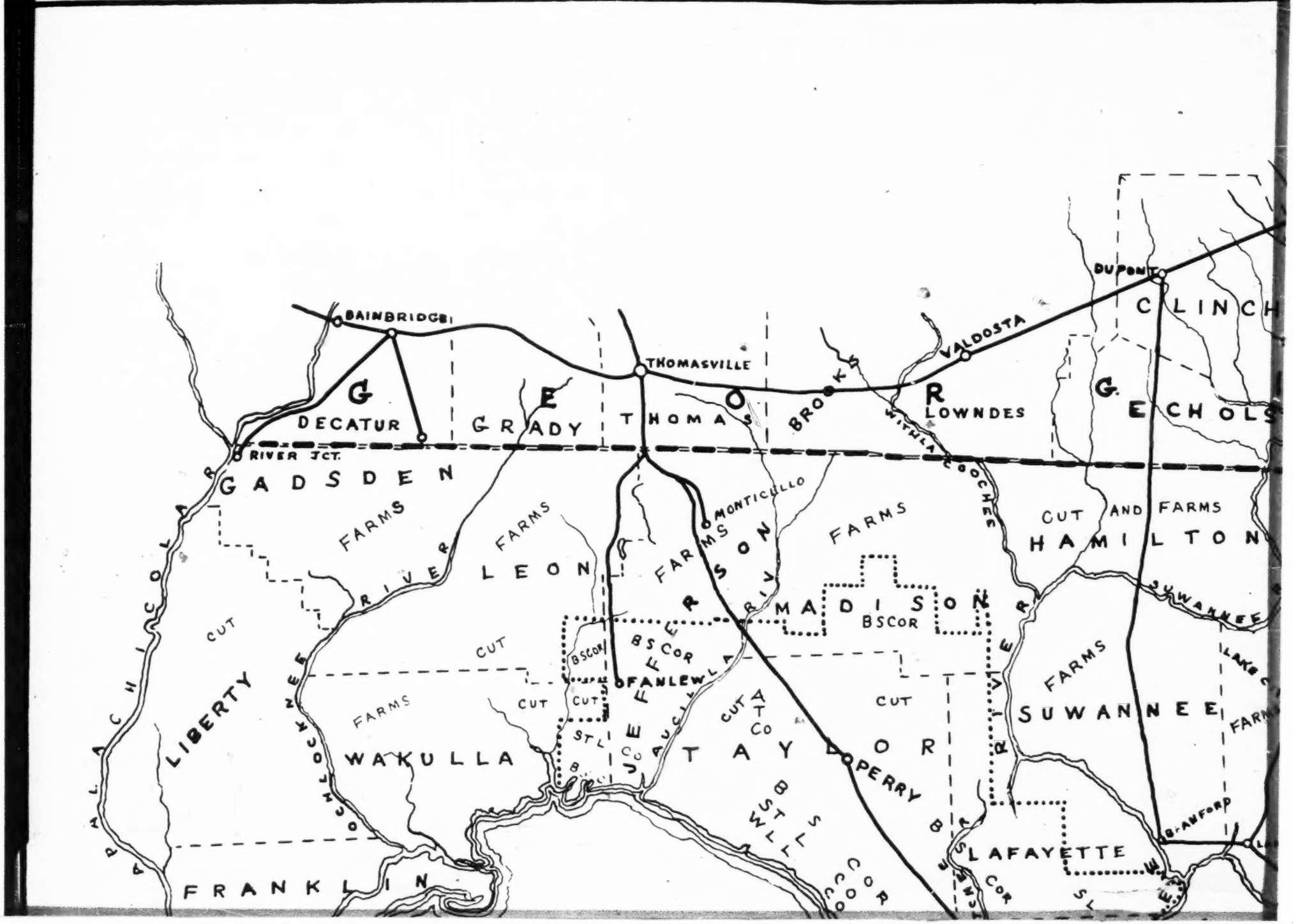
[fol. 460] Memorandum of Property Investment of Brooks-Scanlon Corporation at Scanlon, Florida

Note—There was no investment at this place, as of Dec. 31st, 1922, and the following items shown as of August 31st, 1926, are all new or additional investment.

	Aug. 31, 1926
Buildings, including Furniture & Fixtures in Hotel, Commissary, Post Office, etc.	$61,757.20
Rail	76,879.68
R. R. Cars & Equipment	8,459.90
Main Line R. R.	81,517.33
Locomotives	78,374.99
Autos & Motor Cars	1,435.23
Live Stock	16,753.43
Wagons, Carts & Harness	2,759.61
Skidders	28,701.45

[* Red in copy.]

EXHIBIT 44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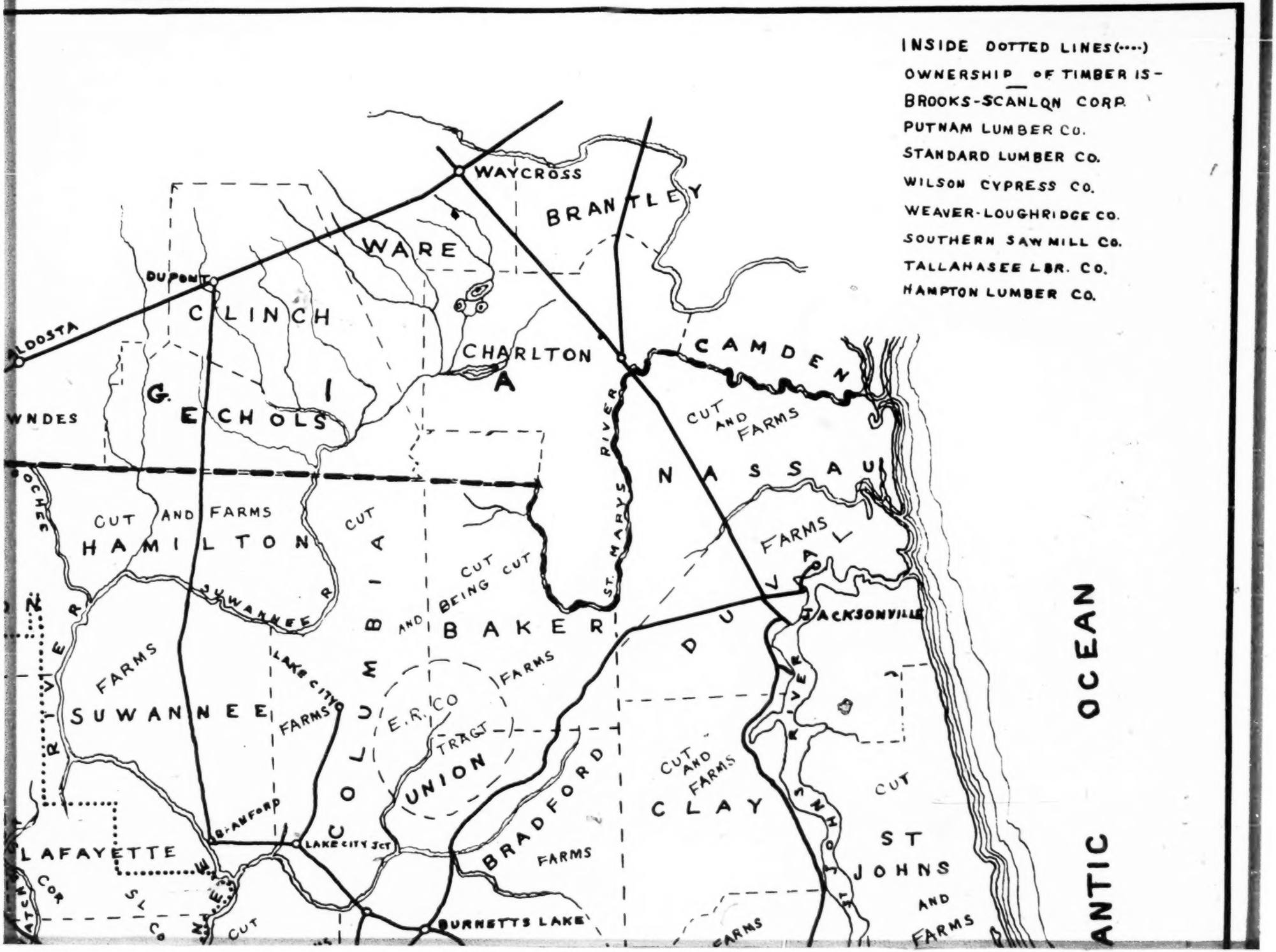
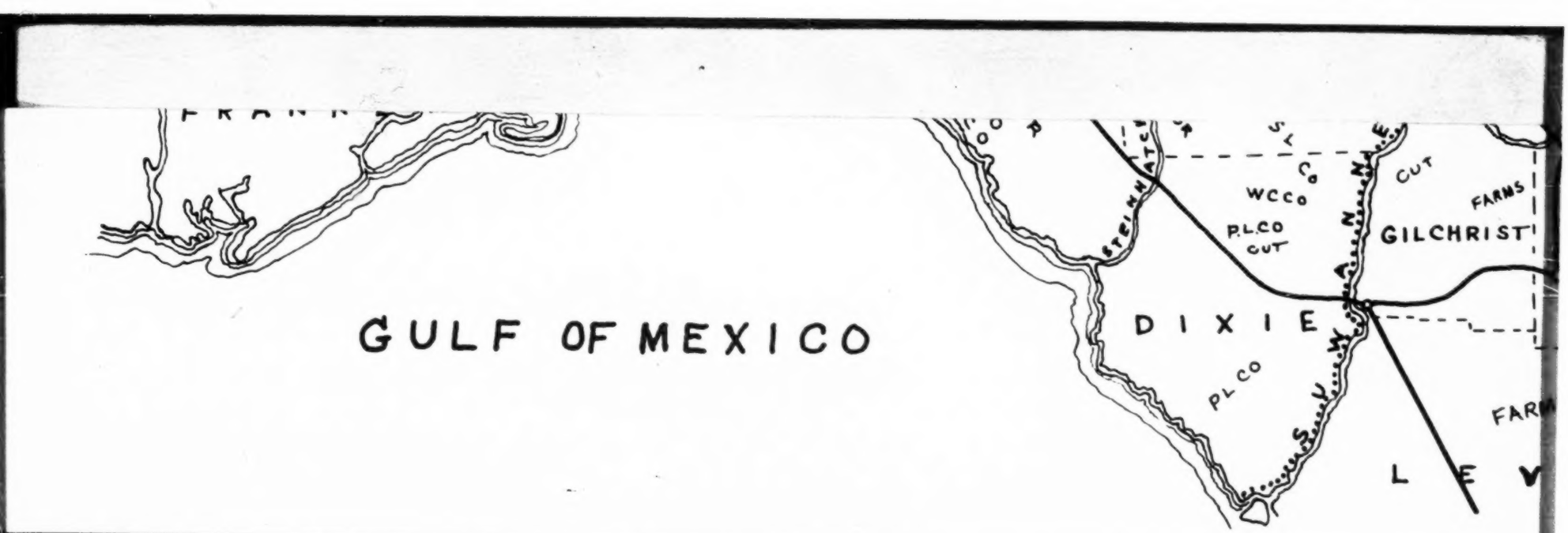
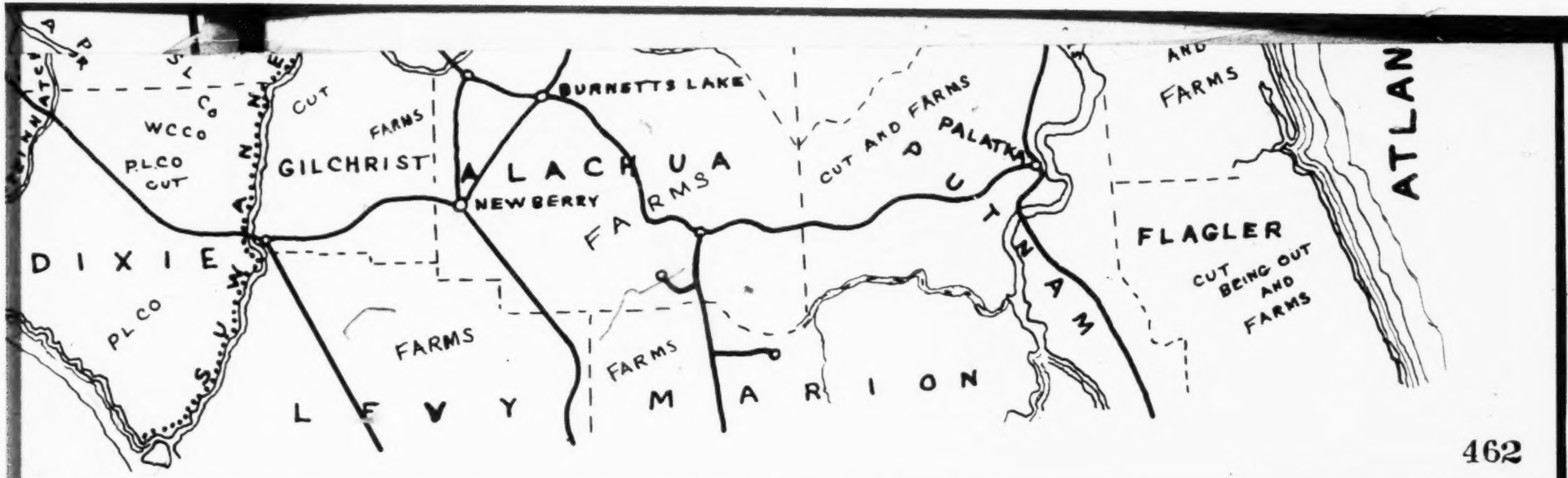
THOMASVILLE
VALDOSTA
DUPONT
CLINCH
DECATUR
GRADY
THOMAS
BROOKS
LOWNDES
ECHOLS
RIVER JCT.
GADSDEN
FARMS
LEON
MONTICELLO
JEFFERSON
MADISON
HAMILTON
CUT AND FARMS
SUWANNEE
LIBERTY
CUT
WAKULLA
FARMS
FRANKLIN
APALACHICOLA
OCHLOCKNEE
TAYLOR
PERRY
SUWANNEE
LAFAYETTE
BRANFORD
BSCOR
CUT
FARMS

EXHIBIT 44


INSIDE DOTTED LINES(····)
OWNERSHIP OF TIMBER IS-
BROOKS-SCANLON CORP.
PUTNAM LUMBER CO.
STANDARD LUMBER CO.
WILSON CYPRESS CO.
WEAVER-LOUGHRIDGE CO.
SOUTHERN SAW MILL CO.
TALLAHASEE LBR. CO.
HAMPTON LUMBER CO.
WAYCROSS
BRANTLEY
WARE
DUPONT
CLINCH
LOOSTA
CHARLTON
CAMDEN
ECHOLS
WNDES
CUT AND FARMS
NASSAU
OCHEE
CUT AND FARMS
HAMILTON
CUT
ST. MARYS RIVER
FARMS
SUWANNEE R
CUT AND BEING CUT
COLUMBIA
BAKER
DUVAL
JACKSONVILLE
FARMS
SUWANNEE
LAKE CITY FARMS
E.R. CO TRACT
FARMS
UNION
BRADFORD
CUT AND FARMS
CLAY
ST JOHNS RIVER
CUT
ST JOHNS
AND FARMS
LAFAYETTE
BRANFORD
LAKE CITY JCT
FARMS
BURNETTS LAKE
CUT
FARMS
OCEAN


GULF OF MEXICO
WCCO
P.L.CO CUT
CUT
FARMS
GILCHRIST
DIXIE
PL CO



L.C. Crockett - Jan 27.

EXHIBIT No. 43—Continued

	Dec. 31st, 1922	Additional investment	Aug. 31st, 1926
Loaders			14,446.01
Ohio Crane			12,823.49
Drag Line Cranes			23,617.06
Track Laying Machine			5,535.07
Miscellaneous Machinery & Equipment			4,112.72
Shop Machinery & Equipment			13,828.25
Perry Buildings & Real Estate			3,050.65
Total			$433,870.07

[fol. 461] Memorandum of Property Investment of Brooks-Scanlon Corporation at Staten Island, N. Y.

	Dec. 31st, 1922	Additional investment	Aug. 31st, 1926
Real Estate	$127,531.28	.....	$127,531.28
Docks, Gantry, Cranes, Etc.	177,812.24	1,335.19*	176,477.05
Lumber Storage Sheds	9,359.10	.....	9,359.10
Electric Installation	3,188.88	.....	3,188.88
Office Building & Equipment	2,108.50	245.30*	1,863.20
	$320,000.00	.....	$318,419.51

(Here follows Exhibit 44—map, side folio page 462)

[* Red in copy.]

[fol. 463]

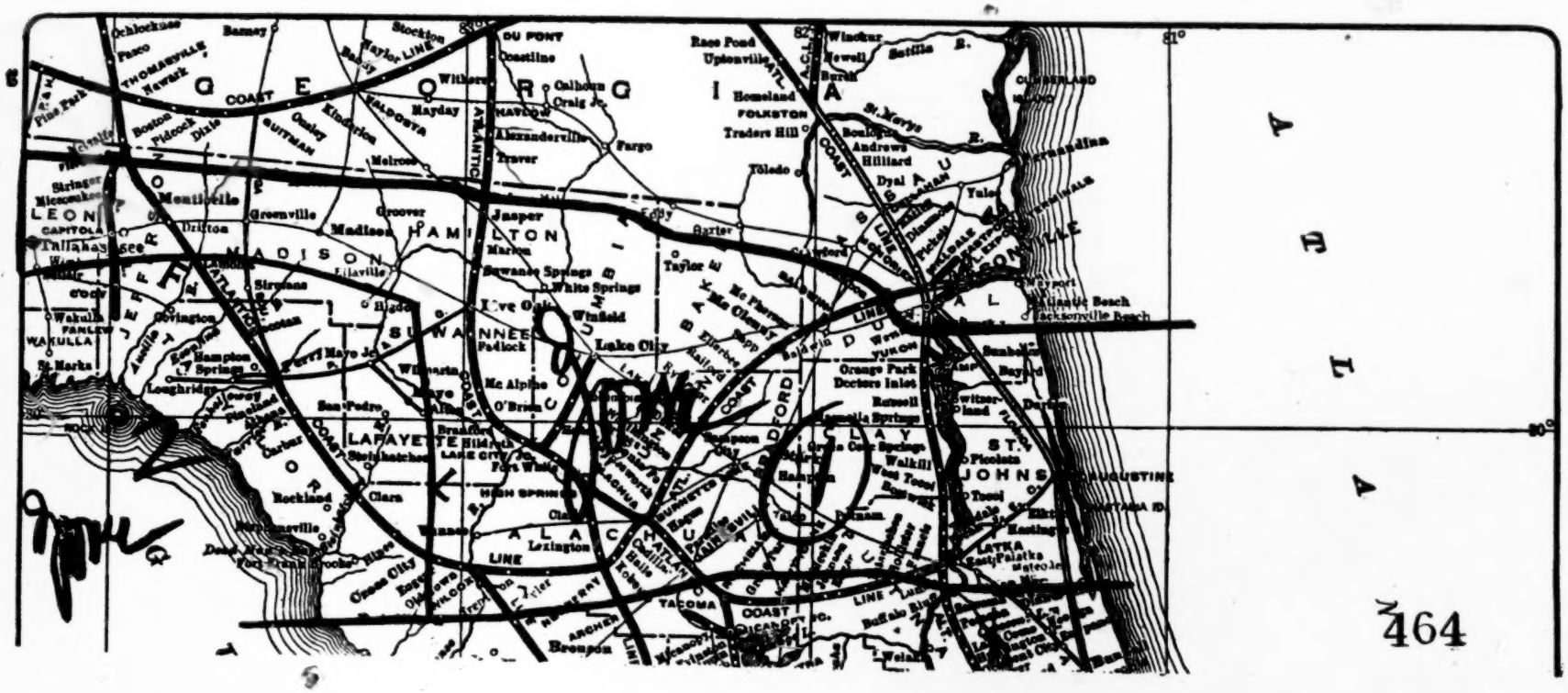
EXHIBIT 45

I. C. C. Docket 18364

Witness: Green

Statement Showing Rates, in Cents, per Hundred Pounds, on Lumber, Carload, from Points in Georgia to Eastern Cities, Interior Eastern and New England Points as Compared with Rates to Same Destinations from Points in Florida Located in Zones 1 and 2

To	From								
	Bainbridge, Ga.	Quitman, Ga.	Thomasville, Ga.	Valdosta, Ga.	Waycross, Ga.	Florida Zone 1 Live Oak, Fla., Palatka, Fla., over Ga. For geographical boundaries of Zones see map attached		Florida Zone 2 Carbur, Fla., Hines, Fla., Perry, Fla., Scanlon, Fla., over Ga. For geographical boundaries of Zones see map attached	
Portland, Me	45	45	45	45	45	46	1	47	2
Boston, Mass	45	45	45	45	45	46	1	47	2
Hartford, Conn	43	43	43	43	43	44	1	45	2
New York, N. Y	41½	41½	41½	41½	41½	42½	1	43½	2
Philadelphia, Pa	36	36	36	36	36	37	1	38	2
Baltimore, Md	35	35	35	35	35	36	1	37	2
Albany, N. Y	43	43	43	43	43	44	1	45	2
Buffalo, N. Y	45	45	45	45	45	46	1	47	2


GEORGIA
FLORIDA
Ochlocknee
Pasco
Barney
Stockton
Taylor LINE
DU PONT
Coastline
Race Pond
Uptonville
Windsor
Newell
Estilla
Burnt
Withers
Calhoun
Craig Jct.
Homeland
FOLKSTON
Traders Hill
Mayday
Kingston
Waldowa
Alexanderville
Fargo
Traver
Melrose
Toledo
St. Marys
Boulogne
Andrews
Hilliard
Dyal
Yulee
Fernandina
Stringer
Miccosukee
Monticello
Greenville
Groover
Madison
Jasper
Marion
Suwanee Springs
White Springs
Live Oak
Winfield
Lake City
Taylor
Barrier
Eddy
Tallahassee
Drifton
Lillaville
Sirmans
Blades
Wakulla
Perry
Mayo Jct.
Hampton Springs
Longbridge
San Pedro
Bronson
Rocklend
Clara
Lexington
Orange City
Osteen
Deland
Fort Frank Brooks
Pedlock
McAlpine
O'Brien
Branford
Lake City Jct.
Fort White
High Springs
Orange Park
Doctors Inlet
Russell
Green Cove Springs
Walkill
Tocoi
Hastings
LATKA
East Palatka
Interlachen
Jacksonville Beach
Atlantic Beach
Jacksonville
Buffalo Bluff
Yulee
Bryceville
Baldwin
Tacoma
Coast
Chicora
Welaka
JEFFERSON
MADISON
LAFAYETTE
SUWANNEE
BAKER
DUVAL
CLAY
ST. JOHNS
ALACHUA
LEON
WAKULLA
COAST LINE
ATLANTIC COAST LINE
SEABOARD
ATLANTIC
GULF
FLORIDA EAST COAST
ST. AUGUSTINE
82°
30°

464

Syracuse, N. Y.	45	45	45	45	45	46	1	47	2
Wilkes Barre, Pa.	41½	41½	41½	41½	41½	42½	1	43½	2
Williamsport, Pa.	41½	41½	41½	41½	41½	42½	1	43½	2
Harrisburg, Pa.	36	36	36	36	36	37	1	38	2

Tariff Authority: Agt. J. H. Glenn's I. C. C. No. A-541.

Jacksonville, Fla., January 18, 1927.

25—493-4-5

(Here follows map, side folio page 464)

[fol. 465] EXHIBIT No. 46

I. C. C. Docket 18364

Witness: E. M. Price

Statement of Rates on Logs from Florida Points to Climax, Ga., Compared with Rates from Florida Points to Florida Manufacturing Points and Showing Discrimination Against Climax, Ga.

Rates, in Cents, per Car 50,000 Pounds

From	To	Distance	Rate	Discrimination against Climax, Ga.
Fincher, Fla.	Climax, Ga.	40	$22.50	.....
Godwins & Harrell, Fla.	Jacksonville, Fla.	39	8.55	$13.95
Stringer, Fla.	Climax, Ga.	43	25.00	.....
Forrester, Fla.	Climax, Ga.	43	25.00	.....
Alma, Fla.	Climax, Ga.	46	25.00	.....
Bryants Still, Fla.	Climax, Ga.	47	25.00	.....
Miccosukee, Fla.	Climax, Ga.	48	25.00	.....
Johnstown, Fla.	Jacksonville, Fla.	49	10.50	14.50
Brice, Fla.	Climax, Ga.	51	27.50	.....
Monticello, Fla.	Climax, Ga.	52	27.50	.....
Wadesboro, Fla.	Climax, Ga.	54	27.50	.....
Capitola, Fla.	Climax, Ga.	59	27.50	.....
Dukes, Fla.	Jacksonville, Fla.	59	10.50	17.00
Cody, Fla.	Climax, Ga.	65	30.00	.....
Haynesworth, Fla.	Jacksonville, Fla.	69	11.50	18.50
Jasper, Fla.	Climax, Ga.	130	42.50	.....
Jasper, Fla.	Jacksonville, Fla.	142	17.00	25.50
Bakers Mill, Fla.	Climax, Ga.	126	42.50	.....
Bakers Mill, Fla.	Jacksonville, Fla.	138	17.00	25.50
Marion, Fla.	Climax, Ga.	136	42.50	.....
Marion, Fla.	Jacksonville, Fla.	139	17.00	25.50
Suwanee, Fla.	Climax, Ga.	139	42.50	.....
Suwanee, Fla.	Jacksonville, Fla.	135	17.00	25.50
Rixsford, Fla.	Climax, Ga.	142	45.00	.....
Paddock, Fla.	Climax, Ga.	151	45.00	.....
McAlpin, Fla.	Climax, Ga.	157	45.00	.....
Pineland, Fla.	Jacksonville, Fla.	156	17.00	28.00
O'Brien, Fla.	Climax, Ga.	164	47.50	.....
Branford, Fla.	Climax, Ga.	170	47.50	.....
Croom, Fla.	Jacksonville, Fla.	169	18.50	29.00

Authority:

A. C. L. Ry. G. F. O. 116 I. C. C. B 2255, Sup. 29.

A. C. L. Ry. I. C. C. B 2141.

J. H. Glenn's I. C. C. A 415, Sup. 27 (A. C. L. G. F. O. 253).

[fol. 466] EXHIBIT No. 47

I. C. C. Docket 18364

Witness: E. M. Price

Statement of Rates on Logs Intrastate in North Carolina Compared with Rates Proposed by A. C. L. Ry.

Rates, in Cents, per Hundred Pounds

Distance	North Carolina, min. car 40,000 lbs.	Proposed by A. C. L. Ry., min. car 40,000 lbs.
12 miles	1.8	3
14 "	1.8	3
22 "	2.13	3.5
24 "	2.13	3.5
32 "	2.62	4
34 "	2.62	4
42 "	2.87	4.5
44 "	2.87	4.5
52 "	3.25	4.5
54 "	3.25	4.5
62 "	3.5	5
64 "	3.5	5
72 "	4	5.5
74 "	4	5.5
82 "	4.25	5.5
84 "	4.25	5.5
92 "	4.62	6
94 "	4.62	6
100 "	5	6
110 "	5.37	6.5
120 "	5.62	6.5
130 "	6.12	7
140 "	6.25	7
150 "	6.75	7.5
160 "	7.12	7.5
170 "	7.37	8

Authority:

A. C. L. Ry. I. C. C. B 2091 (Sup. 13).
Witness Perrin's Exhibit No. 24.

[fol. 467] EXHIBIT No. 48

I. C. C. Docket 18364

Witness: E. M. Price

Statement of Rates on Logs Between Points in North Carolina Compared with Rates Proposed by A. C. L. Ry. for Same Distance

Rates, in Cents, per Hundred Pounds

	Distance, miles	North Carolina rate (note)	Proposed by A. C. L. Ry.
Walter to Goldsboro	6	1.77	2.5
Hallifax to Weldon	7.6	1.77	2.5
Dudley to Goldsboro	8.1	1.77	2.5
Grassmere to Goldsboro	8.7	1.77	2.5
Ruggles to Weldon	11.3	2.06	3
Delmar to Weldon	12.9	2.06	3
Griffins to Goldsboro	13.5	2.06	3
Maco to Wilmington	13.7	2.06	3
Rocky Point to Wilmington	14.3	2.06	3
Ravenwood to Newbern	15.9	2.06	3
Tillery to Weldon	16.4	2.06	3
Hawaco to Weldon	16.8	2.06	3
Enfield to Weldon	18.6	2.06	3
Faison to Goldsboro	20.1	2.06	3.5
Spring Hill to Weldon	20.6	2.35	3.5
Bricks to Weldon	21.7	2.35	3.5
Kitchins to Weldon	22.4	2.35	3.5
Burgaw to Wilmington	22.6	2.35	3.5
Belgrade to Newbern	22.7	2.35	3.5
Whitaker to Weldon	24.6	2.35	3.5
Goldsboro to Wilson	24.8	2.35	3.5
Deppe to Newbern	26.2	2.35	3.5
Scotland Neck to Weldon	26.8	2.35	3.5
Battleboro to Weldon	28.8	2.35	3.5
Bolton to Wilmington	29.1	2.35	3.5
Watha to Wilmington	29.5	2.35	3.5
Aberly to Newbern	29.9	2.35	3.5
Arringtons to Weldon	31.3	2.46	4
Willard to Wilmington	32.7	2.46	4

	Distance, miles	North Carolina rate (note)	Proposed by A. C. L. Ry.
Carr to Goldsboro.....	32.9	2.46	4
Hobgood to Weldon.....	33.7	2.46	4
Wallace to Wilmington...	35.9	2.46	4
Kerr to Wilmington.....	36.7	2.46	4
Hawkside to Newbern....	34.4	2.46	4
Hallsboro to Wilmington.	40.5	2.58	4.5
Willard to Goldsboro....	50.9	2.7	4.5
Chadbourn to Wilmington	53.5	2.7	4.5
Hollyridge to Newbern...	56.7	2.7	5
Edgecombe to Newbern..	60.2	2.7	5
Woolvins to Newbern....	62.9	2.81	5
Mt. Taboro to Wilmington	67.2	3.06	5
Hope Mills to Wilson....	80.9	3.06	5.5
Freeman to Goldsboro...	106.1	4.1	6.5
Wilmington to Wilson....	108.4	4.1	6.5
Wananish to Goldsboro...	118.3	4.1	6.5
Hallsboro to Goldsboro...	124.1	4.1	7
Flynns Sdg. to Goldsboro.	126.6	4.1	7

Authority:

A. C. L. Ry. I. C. C. 2248 G. F. O. 297.
Witness Perrin's Exhibit No. 24.

NOTE.—Rates apply on Sawmill Logs (except walnut, cherry and cedar) when loaded on standard flat cars, car load minimum 3,500 feet. Rates converted to cents per hundred pounds based upon estimated weight of 12,000 lbs. per 1,000 feet.

[fol. 468] EXHIBIT No. 49

I. C. C. Docket 18364

Witness: E. M. Price

Statement of Rates on Logs Intrastate in South Carolina Compared with Rates Proposed by A. C. L. Ry.

Rates, in Cents, per Hundred Pounds

Distances	S. C. Intrastate, min. 24,000 lbs.	Proposed by A. C. L. Ry., min. 40,000 lbs.
5 miles	2.4	2.5
10 "	2.85	2.5
15 "	3.5	3
20 "	3.83	3
25 "	3.83	3.5
30 "	4.33	3.5
35 "	4.5	4
40 "	4.66	4
45 "	5	4.5
50 "	5.33	4.5
55 "	5.33	4.5
60 "	5.33	5
65 "	5.33	5
70 "	5.66	5
75 "	5.83	5.5
80 "	5.83	5.5
85 "	6	5.5
90 "	6	6
95 "	6.16	6
100 "	6.16	6
110 "	6.5	6.5
120 "	6.66	6.5
130 "	6.66	7
140 "	6.83	7
150 "	6.83	7.5
160 "	7.16	7.5
170 "	7.16	8

Authority:

A. C. L. Ry. I. C. C. B. 2093.
Witness Perrin's Exhibit No. 24.

[fol. 469] EXHIBIT No. 50

I. C. C. Docket 18364

Witness: E. M. Price

Statement of Rates on Logs Applying Joint Between Stations on A. C. L. Ry. in South Carolina East of Augusta and Stations on C. &. W. C. Ry. East of Augusta when Short Line Mileage is via Robbins and Yemassee, S. C., Compared with Rates Proposed by A. C. L. Ry.

Rates, in Cents, per Hundred Pounds

Distance	A. C. L., C. & W. C. (note), min. 24,000 lbs.	Proposed by A. C. L. Ry., min. 40,000 lbs.
5 miles	2.4	2.5
10 "	2.85	2.5
15 "	3.5	3
20 "	3.83	3
25 "	3.83	3.5
30 "	4.33	3.5
35 "	4.5	4
40 "	4.66	4
45 "	5	4.5
50 "	5.33	4.5
55 "	5.33	4.5
60 "	5.33	5
65 "	5.33	5
70 "	5.66	5
75 "	5.83	5.5
80 "	5.83	5.5
85 "	6	5.5
90 "	6	6
95 "	6.16	6
100 "	6.16	6
110 "	6.5	6.5
120 "	6.66	6.5
130 "	6.66	7
140 "	6.83	7
150 "	6.83	7.5
160 "	7.16	7.5
170 "	7.16	8

Authority:

A. C. L. Ry. G. F. O. 26 I. C. C. B 2445.
Witness Perrin's Exhibit No. 24.

NOTE.—Rates subject to 20% deduction when used in constructing Combination rates.

[fol. 470]

EXHIBIT No. 51

I. C. C. Docket 18364

Witness: E. M. Price

Rates on Logs Intrastate in Georgia Compared with Rates Proposed by A. C. L. Ry for Interstate Florida to Georgia

Rates, in Cents, per Hundred Pounds

Distances	Georgia, min. car 40,000 lbs.	Proposed by A. C. L. Ry., min. 40,000 lbs.
5 miles	1.83	2.5
10 "	2.11	2.5
15 "	2.5	3
20 "	2.62	3
25 "	2.88	3.5
30 "	3	3.5
35 "	3.25	4
40 "	3.37	4
45 "	3.5	4.5
50 "	3.5	4.5
55 "	3.62	4.5
60 "	4	5
65 "	4.12	5
70 "	4.25	5
75 "	4.37	5.5
80 "	4.62	5.5
85 "	4.75	5.5
90 "	4.87	6
95 "	5.12	6

Distances	Georgia, min. car 40,000 lbs.	Proposed by A. C. L. Ry., min. 40,000 lbs.
100 "	5.37	6
110 "	5.5	6.5
120 "	5.62	6.5
130 "	5.75	7
140 "	6	7
150 "	6.25	7.5
160 "	6.37	7.5
170 "	6.5	8

Authority:

Proposed Rates: Witness Perrin's Exhibit No. 24.

Georgia Rates: Maximum Rates Georgia Public Service Commission.

B-2092.

[fol. 471]

EXHIBIT No. 52

Docket 18364

Witness: E. M. Price

Statement Showing Rates on Logs Interstate and Intrastate in North Carolina, South Carolina, Georgia, Florida and Alabama and Average of Interstate and Intrastate Rates Compared with Rates Proposed by A. C. L. Ry. Co.

Rates, in Cents, per Hundred Pounds

Distance	N. C. A	N. C. B	S. C. C	Ga. D	Fla. E	Ala. F	Interstate G	Average inter. & intrastate H	Average intrastate I	Proposed by A. C. L. Ry. J
5 miles	1.8	1.77	2.4	1.83	1.71	2.5	2.5	2.07	2	2.5
10 "	1.8	2.06	2.85	2.11	1.71	2.5	3	2.29	2.17	2.5
15 "	2.13	2.06	3.5	2.5	1.71	3	3.5	2.63	2.48	3
20 "	2.13	2.06	3.83	2.62	1.71	3	3.5	2.69	2.56	3
25 "	2.13	2.35	3.83	2.88	1.71	3.5	4	2.91	2.73	3.5
30 "	2.62	2.46	4.33	3	1.71	3.5	4	3.09	2.93	3.5
35 "	2.87	2.46	4.5	3.25	1.71	4	4.5	3.37	3.13	4
40 "	2.87	2.58	4.66	3.37	1.71	4	4.5	3.38	3.2	4
45 "	3.25	2.7	5	3.5	2.1	4.5	5	3.72	3.5	4.5
50 "	3.25	2.7	5.33	3.5	2.1	4.5	5	3.77	3.56	4.5
55 "	3.5	2.7	5.33	3.62	2.1	4.5	5.5	3.88	3.62	4.5
60 "	3.5	2.7	5.33	4	2.1	5	5.5	4.02	3.77	5
65 "	4	3.06	5.33	4.12	2.3	5	6	4.26	3.97	5
70 "	4	3.06	5.66	4.25	2.3	5	6	4.32	4.04	5

75	"	4.25	3.06	5.83	4.37	2.3	5.5	6.5	4.54	4.22	5.5
80	"	4.25	...	5.83	4.62	2.3	5.5	6.5	4.83	4.5	5.5
85	"	4.62	...	6	4.75	2.3	5.5	7	5.03	4.63	5.5
90	"	4.62	...	6	4.87	2.3	6	7	5.11	4.76	6
95	"	5	...	6.16	5.12	2.6	6	7	5.31	4.97	6
100	"	5	...	6.16	5.37	2.6	6	7	5.35	5.03	6
110	"	5.37	4.1	6.5	5.5	2.8	6.5	7.5	5.47	5.13	6.5
120	"	5.62	4.1	6.66	5.62	3.2	6.5	8	5.67	5.28	6.5
130	"	6.12	4.1	6.66	5.75	3.2	7	8.5	5.9	5.47	7
140	"	6.25	...	6.83	6	3.4	7	8.5	6.33	5.89	7
150	"	6.75	...	6.83	6.25	3.4	7.5	9	6.62	6.14	7.5
160	"	7.12	...	7.16	6.37	3.4	7.5	9	6.76	6.31	7.5
170	"	7.37	...	7.16	6.5	3.7	8	9.5	7.04	6.55	8

Authority:

A—Applies Intrastate in North Carolina A. C. L. Ry. I. C. C. B 2091.
B—Applies Intrastate in North Carolina A. C. L. Ry. I. C. C. B 2248.
C—Applies Intrastate in South Carolina A. C. L. Ry. I. C. C. B 2093.
D—Applies Intrastate in Georgia A. C. L. Ry. I. C. C. B 2092.
E—Applies Intrastate in Florida A. C. L. Ry. I. C. C. B 2255.
F—Applies Intrastate in Alabama Witness Perrins Exhibit 24.
G—Applies Interstate Witness Perrins Exhibit 17.
H—Average of Inter and Intrastate Rates.
I—Average of Intrastate Rates.
J—Rates proposed by A. C. L. Ry. Co.
(See Exhibit No. —.)

[fol. 472] EXHIBIT No. 53

I. C. C. Docket 18364

Witness: E. M. Price

Statement Showing Result of Operation Atlantic Coast Line Railroad (System)

Year	Gross operating revenues	Average miles of road operated	Per mile of road operated: Operating revenue	Per mile of road operated: Operating expenses	Per mile of road operated: Net operating earnings, revenue
1914	$36,832,779	4661	$7,927	$5,641	$2,285
1921	66,730,767	4893	13,637	11,834	1,783
1922	70,823,344	4852	14,596	10,723	3,872
1923	80,882,310	4860	16,639	12,316	3,323
1924	81,785,921	4865	16,807	12,399	4,408
1925	93,997,697	4890	19,220	13,284	5,936

Increase 1925 over 1914—Per Mile

Gross Earnings	155.2%
Net Earnings	159.8%

Authority: Annual Reports filed with Georgia Public Service Commission.

[fol. 473] SUPPLEMENT 1 TO INTERVENOR'S EXHIBIT 37

I. C. C. Docket 18364

Witness: Reeves

Statement Showing List of Lumber Manufacturers, Members of Southeastern Forest Products Association (Formerly Georgia-Florida Saw Mill Association), Located Within the State of Georgia as of January 18, 1927

(Filed as Part of Intervener's Exhibit 37 in Compliance with Orders of Interstate Commerce Commission in Docket 18364)

Name	Location
Brown-Bland Lumber Co	Stilson, Ga.
W. E. Beverly	Thomasville, Ga.
Bladen Tie & Lumber Co	Brunswick, Ga.

Name	Location
Bray-Giddens & Co	Broxton, Ga.
J. N. Bray & Co	Valdosta, Ga.
Buffalo Lumber Co	Lexington, Ga.
Cobb Lumber Co	Oglethorpe, Ga.
Council Lumber Co	Council, Ga.
Cordele Sash, Door & Lumber Co	Cordele, Ga.
F. W. Darby Lumber Co	Statesboro, Ga.
Dublin Sash & Door Co	Dublin, Ga.
Enterprise Lumber Co	Lumpkin, Ga.
Enterprise Manufacturing Co	Waycross, Ga.
Goodman-Golden Lumber Co	Tifton, Ga.
Hiers Planing Mill Co	Waycross, Ga.
Jackson Brothers Lumber Co	Tallapoosa, Ga.
Jackson Brothers Lumber Co	Valdosta, Ga.
King Lumber & Oil Co	Unadilla, Ga.
King & Thurston	Thomaston, Ga.
Kirby Planing Mill Co	Thomasville, Ga.
J. T. Lord, Jr	Toomsboro, Ga.
Lake Park Lumber Co	Lake Park, Ga.
Mason Lumber Co	Madison, Ga.
Millen Lumber Co	Millen, Ga.
McCollum Lumber Co	Thomasville, Ga.
F. M. Shore & Co	Quitman, Ga.
Southern Sawmill Co	Thomasville, Ga.
Shealey Lumber Co	Nashville, Ga.
Tyson Lumber Co	Meigs, Ga.
Turner Lumber Co	Millen, Ga.
Warsaw Lumber Co	Warsaw, Ga.

[fol. 474] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE NARRATIVE STATEMENT OF TESTIMONY, ETC., AND ORDER APPROVING SAME—Filed Nov. 16, 1929

The complainants, having offered in evidence before the District Court a certified full copy of the transcript of the [fol. 475] evidence and proceedings before the Interstate

Commerce Commission in the matter entitled No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company, decided August 2, 1928, and the same having been received by the Court and made a part of the record herein; now for the purpose of reducing the record on the appeals pursuant to Equity Rule No. 75 the parties by their respective counsel stipulate:

I

The within and attached volume of condensed and narrative statement of testimony constitutes a true and correct transcript in condensed and narrative statement form of all the testimony before said Commission in said matter No. 18364 and contained in the said certified full copy so offered and received in evidence and now on file with the Clerk herein.

II

The Clerk shall include in the certified transcript of the record on the appeal to the Supreme Court, the within and attached volume of condensed and narrative statement of testimony in lieu of the certified full copy of such testimony now on file with the Clerk herein.

III

The Clerk shall include in the certified transcript of the record on the appeals to the Supreme Court in their appropriate order copies of all papers which were filed and entered in these proceedings in equity, subsequent to the date of the entry of the order allowing the appeals of the State of Florida, et al. in No. 514, Brooks-Scanlon Corporation, et al., in No. 511, and Wilson Lumber Company of Florida, in No. 512, on June 6, 1929.

Fred H. Davis, as Attorney General; T. T. Turnbull, Solicitors for Complainants in No. 514. Geo. L. [fol. 476] Rutherford, H. P. Adair, E. W. Mitchell, August Gutheim, Chas. E. Cotterill, Solicitors for Complainants in No. 511. J. V. Norman, Solicitor for Complainant in No. 512. Elmer B. Collins, Solicitor for United States of America. J. Stanley Payne, Solicitor for Interstate Commerce

Commission. Jas. A. Perry, Solicitor for Georgia Public Service Commission. Robt. Alston, Solicitor for Atlantic Coast Line Railroad Company, Defendants and Intervening Defendants in Nos. 514, 511, and 512.

[fols. 477 & 478] Order

The foregoing stipulation is approved:

Pursuant thereto it is ordered that the condensed and narrative statement of testimony consisting of the within and attached volume be and the same is hereby approved; and the Clerk is directed to include the same in the certified copy of the transcript of the record on the appeal to the Supreme Court in lieu of the certified full copy now on file with the Clerk; and in the same manner to include in their appropriate order in the transcript the papers specified in paragraph III of the Stipulation.

By the Court:

James [Signature illegible], Judge Northern District of Georgia, Atlanta Division.

Nov. 16th, 1929.

[fol. 479] Before Interstate Commerce Commission

Docket No. 18364

Georgia Public Service Commission, Complainant,

vs.

Atlantic Coast Line Railroad Company, Defendant

Narrative Statement of Testimony

Valdosta, Ga., October 20, 1926—10 o'clock a. m.

Before Examiners F. C. Hillyer and R. N. Brown

Met pursuant to notice.

Appearances of Counsel

James A. Perry, C. R. Bennett, Albert J. Woodruff, W. R. McDonald and E. M. Price, for the Georgia Public Service Commission, complainant.

Carl H. Davis, for the Atlantic Coast Line Railroad Company, defendant.

R. Hudson Burr, A. S. Wells, E. S. Matthews, Fred H. Davis and J. H. Tench, for the Florida Railroad Commission, intervenor; Charles E. Cotterill, for the Cummer Cypress Company, Wilson Cypress Company and Putnam [fol. 480] Lumber Company, intervenors.

J. O. Cassily and E. C. Greene, for the Jacksonville Traffic Bureau intervenor.

J. S. Farrish, for the Georgia-Florida Saw Mill Association, and Roofer Manufacturers' Club of Georgia, intervenors.

R. E. Mich, for the Southern Cypress Manufacturers' Association, intervenor.

E. W. Mitchell, for Cummer Cypress Company, intervenor.

H. P. Adair, for Putnam Lumber Company, intervenor.

H. P. Osborne, for the Wilson Cypress Company, intervenor.

A. G. T. Moore, for the Southern Pine Association, intervenor.

George L. Rutherford, for the Brooks-Scanlon Corporati-n, intervenor.

Edward P. Sanborn, for the Brooks-Scanlon Corporation, intervenor.

T. J. McGinn, for the Board of Trade and City of Savannah, intervenor.

F. E. Harrison, Jr., for the Florida Traffic Associati-n, intervenor.

Henry Thurtell, for the Seaboard Air Line Railway Company, the Central of Georgia Railroad, Southern Railway, and Georgia Southern and Florida Railroad, intervenors.

O. C. Abrams, for the Seabord Air Line Railway, intervenor.

J. A. Streyer and D. F. Kirkpatrick, for the American Short Line Railroad Association and the Georgia and Florida Railroad, intervenors.

J. M. Simmons, for the Alberta Crate Company and Champion Box Company, intervenors.

"Examiner Hillyer: The Interstate Commerce Commission has set for hearing at this time and place, Docket 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company."

(Appearances were then taken.)

[fol. 481] "Examiner Hillyer: This is what is known as a section 13 case, and the State of Florida has been notified in accordance with the statute."

"Examiner Brown: I am going to read a statement of the issues in this proceeding. If there is any disagreement with the issues as stated by me, please so state:

It is alleged that the rates on logs, in carloads, from points in Florida to destinations in Georgia are unreasonable, unjustly discriminatory, unduly preferential of Florida shippers, and the Florida intrastate traffic, and unduly prejudicial to Georgia shippers, and to interstate traffic, in violation of sections 1, 2, 3, and 13 of the Interstate Commerce Act.

The Commission is asked to prescribe reasonable rates for the future" (Tes., p. 9).

[fol. 482] Exam. Brown: You have heard the statement of the issues read. Are there any corrections or changes to be made in that statement? If not, the complainant, the Georgia Public Service Commission, may proceed now with the production of witnesses (Tes. p. 10).

E. M. PRICE, was called as a witness on behalf of Complainant, and being first duly sworn, testified as follows:

Direct examination.

(By Mr. Perry:)

My name is E. M. Price. I am connected with the Georgia Public Service Commission, with the title of rate expert, [fol. 483] which position I have held for the past seven years; previous to my connection with the Commission, beginning in 1889, I was connected with various railroads in the Southeast and Mississippi Valley territory in various capacities, the greater part of the time being in the traffic department. I am familiar with the issues in this case and the conditions that prompted the Georgia Public Service Commission to bring this complaint. The following conditions actuated the Georgia Commission to bring

this complaint. In 1916 the Georgia carriers filed a petition with the Georgia Commission for a general revision of all class and commodity rates for intrastate application. After extended hearings the Commission issued an order revising all class and commodity rates, including rates on logs, to become effective in September, 1918, but on account of the carriers being taken under Federal control during the period of the war, the effective date of this order was indefinitely postponed, and due to changed conditions brought about during the period of Federal control, the Georgia Commission did not revise this 1918 order, but on July 14, 1921, the Georgia Commission issued an order requiring all the carriers in Georgia to submit schedules of rates on all classes and commodities, which had for its purpose the removal of existing irregularities and discriminations between points in Georgia.

This order of the Commission was complied with, and, of course, included rates on logs. Extensive hearings were [fol. 484] held on the rates submitted during the fall and winter of 1921. Subsequent to that time the Georgia Commission has revised the class rates and the rates on many commodities. The method of procedure of the Georgia Commission in these cases has been for the Commission to submit certain schedules to carriers and shippers for criticism, similar to the method of a proposed report case before the Interstate Commerce Commission. In October, 1923, the Georgia Commission submitted proposed or tentative rates on logs, criticisms on which were held by the Commission on November 26, 1923. Objections were filed by both carriers and shippers, all of which were taken into consideration by the Commission, which resulted in a final order dated April 15, 1925, to become effective June 1, 1925.

At the insistence of shippers' representatives, the effective date of this order was postponed until August 1, 1925, and a hearing had in July of the same year, in order that the shippers might have the opportunity of submitting evidence as to why the order should not be further postponed or rescinded. At this July, 1925, hearing, this Flor- [fol. 485] ida situation which we have under review in this case was brought to the attention of the Georgia Commission. My purpose in making reference to the consideration which the Georgia Commission has given to its rates at

the times I have enumerated is simply by way of information. It is not my purpose to bring or attempt to bring into review Georgia's present rates on logs or any proposed scale of rates on logs at the times I have enumerated, reflecting the dates when this subject was under consideration by the Georgia Commission. The Georgia intra-state rates are not involved in this proceeding in any manner whatsoever. Only the rates on the Atlantic Coast Line between Florida and Georgia for a distance of 170 miles as compared with the rates of that road between points in Florida for the same distance.

I stated a moment ago when it was that the Florida situation was brought to the attention of the Georgia Commission. Some of the facts reflecting the effect of this Florida situation as were presented to the Georgia Commission are as follows: The late Mr. W. E. Gardner, representing the Georgia Forest Products Association, consisting of 12 lumber manufacturers in various sections of Georgia stated (Tes. p. 13):

"Should the Georgia Commission require these new and revised and greatly increased rates to go into effect, it would have the effect of moving industries located at this time in Georgia to the neighboring state of Florida, where even the present rates are much lower than present Georgia scale."

This statement was concurred in by Mr. Farish, representing the Georgia-Florida Saw Mill Association, Mr. Strobel, of the North Carolina Pine Association, Mr. Moore, of the Southern Pine Association, Mr. Grady of the Augusta Board of Commerce and Augusta Traffic Bureau, Mr. [fol. 486] True, of Savannah River Lumber Company, Mr. Linthicum, representing C. I. Harrell, and D. W. Almond, and Mr. J. P. Webster, representing Mr. J. M. Simmons, of Bainbridge, Ga.

Mr. True, in discussing the Georgia rates then under consideration, testified: "We could not pass the increased costs on to the consumer because the manufacturer in Florida still has the present rates, and we could not, competitive conditions would not permit us to pass the increase on to the consumer."

Charles I. Harrell, representing the Southern Heading and Manufacturing Company, Valdosta, Georgia, and

others, testified: "I am very frank to tell you that I, for one, have already considered negotiation for a location in Florida unless we can obtain relief in the State of Georgia. [fol. 487] Mr. J. M. Simmons, of Bainbridge, Georgia, whom I understand is to testify here to day in this case, testified before the Georgia Commission that he had already moved half of his operations to Florida, that Jacksonville now has an advantage over him of $2 per one thousand profit on logs, as well as $2 on the raw material, and Jacksonville was therefore able to cut his price on products shipped into Georgia (Tes. p. 15).

The Act of the General Assembly of Georgia, approved December 18, 1890, provides that it shall be the duty of the Georgia Commission to investigate rates into and out of the State of Georgia, and where, in the opinion of the Commission, such rates are excessive or unreasonable or discriminating in their nature, it shall be the duty of the Commission to bring the matter to the attention of the railroads and urge upon them the propriety of changing such rates; whenever such rates are not accordingly changed, it shall be the duty of the Commission to present the facts to the Interstate Commerce Commission and appeal to it for relief. This Florida situation was handled in the manner provided by the Georgia law. The matter was brought to the attention of the Atlantic Coast Line traffic officials, with the request that they consider extending the Florida intrastate rates complained of into the State of Georgia, which they declined to do. Then in compliance with the law, the Georgia Commission filed this complaint with the Interstate Commerce Commission. The Georgia Commission [fol. 488] did not have any alternative (Tes. p. 16). It has been the practice of the Georgia Commission to proceed in such situations as the law requires to have removed such conditions.

(By Mr. Perry:)

"Q. Mr. Price, do you know whether or not there is any movement of logs from Florida shipping points to Georgia destinations?

"A. No, I do not know, of my own knowledge, but from investigations I have made I do not think it possible for there to be any extensive movement.

"Q. What investigations have you made in regard to rates from Florida points to Georgia destinations?

"A. I have prepared an exhibit consisting of 12 pages which gives a rather complete picture of the situation.

(Exhibit No. 1, consisting of 12 sheets of tabulated statements of rates, marked sheets 1 to 11, and including sheet 7½, was received in evidence.)

Sheet 1 of this exhibit shows a comparison of rates on logs intrastate between points in Florida with rates applying interstate from Florida into Georgia. The rates from Florida into Georgia are stated in the tariff in cents per 100 pounds, and the minimum is 40,000 pounds, and to make proper comparison with the Florida intrastate rates I have converted this to a per car basis. It will be noted that for a distance of 90 miles the Florida intrastate rate is $11.50, as compared with the Florida-Georgia interstate rate for the same distance of $35, and for a distance of 170 miles the Florida intrastate rate is $18.50 a car as compared with the [fol. 489] Georgia-Florida interstate rate of $47.50 per car. The exhibit is self-explanatory and I do not think further comment is necessary to direct attention to the great difference in the two schedules of rates.

The Florida rates are based on 50,000 pounds. The Florida-Georgia interstate rates are based on 40,000 pounds and stated in cents per 100 pounds in the tariff and they have been converted to a per-car basis on 50,000 pounds, so as to conform to the intrastate rates in Florida, to make a proper comparison (Tes. p. 17).

Sheet 2 is for the purpose of showing the discrimination against Bainbridge, Georgia, as compared with log manufacturing points in Florida.

Should Mr. J. M. Simmons, or any other manufacturer at Bainbridge, buy logs at Stringer, Florida, a distance of 51 miles from Bainbridge, the rate would be $27,50 per car, whereas his competitor at Jacksonville, Florida, can buy logs at Lake Butler, Florida, a distance of 53 miles, and his rate would only be $10.50, or a discrimination against Bainbridge of $17 per car. Should the manufacturer at Bainbridge buy logs at Miccosukee, Florida, a distance of 56 miles, he would pay a rate of $27.50 per car, whereas his competitor at Perry, Florida, can buy logs at

Wilcox, Florida, a distance of 57 miles, and get a rate of $10.50 per car.

Should the manufacturer at Bainbridge buy logs at Fan-
[fol. 490] lew, Florida, a distance of 80 miles, he would pay a rate of $32.50 per car, whereas the manufacturer at Jacksonville, Florida, can buy logs at Haile, Florida, a distance of 81 miles, and get a rate of $11.50 per car, or a discrimination against Bainbridge of $21 per car.

Should the manufacturer at Bainbridge buy logs at Padlock, Florida, a distance of 159 miles, he would pay a rate of $45 per car, whereas his competitor at Perry, Florida, can buy logs at Greers, Florida, a distance of 166 miles, and get a rate of $18.50 per car, or a discrimination against Bainbridge of $26.50 per car (Tes. p. 18).

As stated before, I do not know of my own knowledge whether there is any movement of logs from Florida into Georgia, but it seems inconceivable to me that there would be enough profit in any lumber manufacturing business that would enable a manufacturer at Bainbridge to absorb $26.50 freight cost on logs in order to meet the price of his competitor at Jacksonville and Perry, Florida, assuming that the rates on the outbound product would be the same. Of course if the rate outbound from Bainbridge is higher in proportion than the rate from the Florida manufacturing point, the Georgia manufacturer would also have to make this absorption.

Sheet No. 3 is for the purpose of showing the discriminations existing at Albany, Georgia, in favor of log manufacturers in Florida. Should the Reynolds Brothers Lum-
[fol. 491] ber Company at Albany, Ga., purchase logs at Forrester, Fla., a distance of 74 miles, they would have to pay rate of $32.50 per car, whereas their competitor at Jacksonville, Fla., can purchase logs at Cadillac, Fla., a distance of 78 miles, and the rate would only be $11.50 per car, or a discrimination against Albany of $21 per car.

Should the Albany manufacturer purchase logs at Bryants Still, Fla., a distance of 78 miles, he would pay a rate of $32.50 per car, whereas his competitor at Perry, Fla., can buy logs at Otter Creek, Fla., a distance of 78 miles, which is the same distance as from Bryants Still, Fla., to Albany, Ga., yet the competitor at Perry, Fla., would get a rate of $11.50 per car, and the Albany manufacturer would

have to absorb the difference of $21 per car, although the logs to both manufacturing points were hauled identically the same distance.

If Reynolds Brothers at Albany should purchase logs at Monticello, Fla., a distance of 82 miles, they would pay rate of $35 per car, whereas his competitor at Perry, Fla., can purchase logs at Gunntown, Fla., a distance of 84 miles, and get a rate of $11.50 per car, a discrimination of $23.50 against Reynolds Brothers at Albany.

Should Reynolds Brothers, at Albany, buy logs at Asylum, Fla., a distance of 115 miles, they would pay rate of $40 per car, whereas his competitor at Jacksonville, Fla., can purchase logs at Eugene, Fla., a distance of 115 miles, or exactly the same distance as Asylum to Albany, Ga., yet [fol. 492] the Jacksonville competitor would get a rate of $16 per car, or $24 per car less for the same distance than would have to be paid by Reynolds Brothers, at Albany.

Should Reynolds Brothers at Albany, buy logs at Suwanee, Fla., a distance of 170 miles, they would pay a rate of $47.50 per car, whereas their competitor at Perry, Fla., can buy logs at Lumberton, Fla., a distance of 168 miles, and pay rate of $18.50 per car, or a discrimination against Albany of $29 per car.

I have never been engaged in the lumber business, but unless there is more profit in this business than I have been led to believe, I do not think it possible for Reynolds Brothers Lumber Company at Albany to meet the competition of the Florida manufacturer in any case where Florida logs are used.

Sheet No. 4 is submitted for the purpose of showing the discrimination against the manufacturer at Thomasville, Ga.

It will be noted that if the manufacturer at Thomasville should buy logs at Monticello, Brice and Wadesboro, Fla., distances of 24 and 27 miles, he would pay rate of $20 per car, whereas his competitor at Perry, Fla., can buy logs at Hines, Fla., a distance of 34 miles, and get a rate of $8.55 per car, or a discrimination against Thomasville of $11.95.

Should the manufacturer at Thomasville purchase logs at Jasper, Fla., a distance of 103 miles, or at Marion, Fla., a [fol. 493] distance of 108 miles, he would pay a rate of $37.50 per car, whereas his competitor at Jacksonville, Fla.,

can buy logs at Old Town, Fla., a distance of 109 miles, and get a rate of $14 per car, or a discrimination against Thomasville of $23.50 per car.

Should Thomasville purchase logs at Sawanee, Fla., a distance of 112 miles, he would pay a rate of $40 per car, whereas his competitor at Perry, Fla., can buy logs at Hernando, Fla., a distance of 120 miles, and get a rate of $16 per car, or a discrimination against Thomasville of $24 per car.

Should Thomasville buy logs at Hildreths, Fla., a distance of 150 miles, he would pay rate of $45 per car, whereas his competitor at Jacksonville, Fla., can buy logs at Stanco, Fla., a distance of 150 miles, or identically the same distance as from Hildreths to Thomasville, yet the Jacksonville manufacturer would get a rate of $17 per car, or a discrimination against Thomasville of $28 per car.

Should the manufacturer at Thomasville purchase logs at Sisters Welcome, Fla., a distance of 167 miles, he would pay a rate of $47.50 per car, whereas his competitor at Perry, Fla., can purchase logs at Lumberton, Fla., a distance of 168 miles, and get a rate of $18.50 per car, or a discrimination against Thomasville of $29 per car.

It will be noted that Thomasville is just across the Florida line, but I cannot conceive of a manufacturer at that point using Florida logs to any great extent, and it is our contention that the manufacturer at Thomasville should have the [fol. 494] same opportunity of using Florida logs as the manufacturer at Jacksonville, Perry or any other manufacturing point.

Sheet No. 5 is submitted for the purpose of illustrating the conditions as they exist at Quitman, Ga.

It will be noted that should the manufacturer at Quitman purchase logs at Forrester, Fla., a distance of 42 miles, he would pay rate of $25 per car, whereas his competitor at Jacksonville, Fla., can purchase logs at Lake Butler, Fla., a distance of 53 miles, and get a rate of $10.50 or $14.50 less than the manufacturer at Quitman, although the distance from Lake Butler to Jacksonville, Fla., is 11 miles further than from Forrester, Fla., to Quitman, Ga.

Should the manufacturer at Quitman buy logs at Wadesboro, Fla., a distance of 53 miles, he would pay rate of $27.50 per car, whereas his competitor at Perry, Fla., can

buy logs at Hickory, Fla., a distance of 87 miles, and get a rate of $11.50 per car, or a discrimination against Quitman of $16 per car, notwithstanding the distance from Wadesboro to Quitman is 34 miles less than the distance from Hickory to Perry, Fla.

Should the manufacturer at Quitman buy logs at McAlpin, Fla., a distance of 104 miles, he would pay a rate of $37.50 per car, whereas his competitor at Perry, Fla., can buy logs at Gibora, Fla., a distance of 110 miles, and get a rate of $14 per car, or a discrimination against Quitman of $23.50 per car.

[fol. 495] Should the manufacturer at Quitman purchase logs at Burnetts Lake, Fla., a distance of 148 miles, he would pay a rate of $45 per car, whereas his competitor at Jacksonville, Fla., can purchase logs at Stanco, Fla., a distance of 150 miles, and get a rate of $17 per car, or a discrimination of $28 per car against Quitman.

Here again it will be noted how impossible it is for the manufacturer at Quitman to meet his competition in Florida on anything like a profitable basis, notwithstanding that Quitman is located directly on the border of Florida.

Sheet No. 6 is for the purpose of showing the discrimination against the manufacturer of logs at Valdosta, Ga.

Should Jackson Brothers Lumber Company at Valdosta purchase logs at Bakers Mill, Fla., a distance of 55 miles, they would have to pay a rate of $27.50 per car, whereas their competitor at Jacksonville, Fla., can purchase logs at Munich, Fla., a distance of 59 miles, and get a rate of $10.50 per car, or a discrimination against Jackson Brothers at Valdosta of $17 per car.

Should Jackson Brothers, at Valdosta, purchase logs at Alma, Fla., a distance of 61 miles, they would have to pay rate of $30 per car, whereas their competitor at Perry, Fla., can purchase logs at Ushur, Fla., a distance of 72 miles, and get a rate of $11.50 per car, or $18.50 less than that paid by Jackson Brothers at Valdosta, notwithstanding the dis-
[fol. 496] tance from Ushur to Perry, Fla., is 11 miles greater than from Alma, Fla., to Valdosta, Ga.

Should Jackson Brothers at Valdosta, purcahse logs at Rixeford, Fla., a distance of 71 miles, they would pay a rate of $32.50 per car, whereas their competitor at Perry, Fla.,

can purchase logs at Hickory, Fla., a distance of 87 miles, and get a rate of $11.50 per car, a discrimination against Valdosta, of $21 per car, although the distance from Hickory to Perry, Fla., is 16 miles greater than from Rixeford, Fla., to Valdosta, Ga.

Should the manufacturer at Valdosta, purchase logs at Bass, Fla., a distance of 122 miles, he would pay a rate of $42.50 per car, whereas his competitor at Jacksonville, Fla., can purchase logs at Hines, Fla., a distance of 128 miles, and get a rate of $16 per car, or a discrimination against Valdosta of $26.50 per car.

Should the manufacturer at Valdosta purchase logs at Paradise, Florida, a distance of 141 miles, he would pay rate of $45 per car, whereas his competitor at Jacksonville, Fla., can buy logs at Pineland, Fla., a distance of 156 miles, and get a rate of $17 per car, or a discrimination against Valdosta of $28 per car, although the distance from Pineland, Fla., to Jacksonville, Fla., is 15 miles greater than from Paradise, Fla., to Valdosta, Ga.

It is our contention that Jackson Brothers Lumber Com- [fol. 497] pany and other log manufacturers at Valdosta, should have the same opportunity of buying logs at Florida as their competitors at Jacksonville and Perry or any other manufacturing point in Florida, but this exhibit shows how impossible it will be for Jackson Brothers or others at Valdosta to meet the prices of their Florida competitors without absorbing heavy losses.

Sheet No. 7 and Sheet No. 7½, are designed for the purpose of showing the discrimination against the manufacturers of logs at Waycross, Ga.

It will be noted that should the Enterprise Manufacturing Company, who are manufacturers of logs at Waycross, buy logs at Bakers Mill, Fla., a distance of 63 miles, they would pay rate of $30 per car, whereas their competitor at Perry, Fla., can buy logs at Lebanon, Fla., a distance of 92 miles, and get a rate of $11.50 per car; or a discrimination against the Enterprise Manufacturing Company, of $18.50 per car, notwithstanding the distance from Lebanon to Perry, Fla., is 29 miles greater than from Bakers Mill, Fla., to Waycross, Ga.

Should the Enterprise Manufacturing Company at Waycross buy logs at Cambon, Fla., a distance of 79 miles, they

would pay rate of $32.50 per car, whereas their competitor at Jacksonville, Fla., can buy logs at Haile, Fla., a distance of 81 miles, and get a rate of $11.50 per car; or a discrimination against Waycross of $21.

Should the Enterprise Manufacturing Company buy logs [fol. 498] at Bessent, Florida, a distance of 100 miles, they would pay rate of $35 per car, whereas their competitor at Perry, Fla., can buy logs at Kemp, Fla., a distance of 100 miles, and get a rate of $13 per car, or $22 per car less than Waycross, although the distance from Kemp to Perry, Fla., is identically the same as from Bessent, Fla., to Waycross, Ga.

Should the Enterprise Manufacturing Company buy logs at Branford, Fla., a distance of 107 miles, they would pay rate of $37.50 per car, whereas their competitor at Jacksonville can buy logs at Old Town, Fla., a distance of 109 miles, and get a rate of $14 per car, or a discrimination against the Enterprise Manufacturing Company of $23.50 per car.

Should the manufacturer at Waycross buy logs at Columbia, Fla., a distance of 126 miles, he would pay a rate of $42.50 per car, whereas his competitor at Jacksonville, Fla., can buy logs at Hines, Fla., a distance of 128 miles, and get a rate of $16 per car, or a discrimination against Waycross of $26.50 per car.

Should the Enterprise Manufacturing Company, or other log manufacturers at Waycross buy logs at Fanlew, Fla., a distance of 148 miles, he would pay a rate of $45 per car, whereas his competitor at Perry, Fla., can buy logs at Trilby, Fla., a distance of 154 miles, and get a rate of $17 per car, or a discrimination against Waycross manufacturer of $28 per car.

I do not know to what extent the Enterprise Manufacturing Company or other log manufacturers at Waycross are [fol. 499] buying logs in Florida, but it will be noted from this exhibit that it is all but impossible for Waycross to meet the competition of their Florida competitors without absorbing heavy losses in freight cost on their logs, although the logs to Waycross may be hauled for a much less distance than they are hauled to their competitors in Florida.

Now, Mr. Examiner, the illustrations which I have given on the preceding sheets show the discriminations against Albany, Waycross and other Georgia manufacturing points, predicated on the logs moving for the same or greater distance to the Florida manufacturing points, although in each instance the logs would not originate at the same shipping point in Florida.

Sheet No. 8 is submitted for the purpose of showing the discrimination against the manufacturer of logs at Thomasville, Ga., and the total amount he would have to absorb to meet the competition of his competitor at Jacksonville, Fla., both Jacksonville, Fla., and Thomasville, Ga., buying their logs at the same shipping point in Florida.

The amount of the discrimination shown is predicated on the usual estimate of three cars of logs to produce one car of finished material.

It will be noted that should the manufacturer of logs at Thomasville, Ga., and Jacksonville, Fla., both buy logs at Bakers Mill, Fla., the rate paid by the manufacturer at Thomasville would be $35 per car for a distance of 99 miles, [fol. 500] whereas his competitor at Jacksonville, Fla., would pay rate of $17 per car for a distance of 138 miles, and in order for the manufacturer at Thomasville to meet the competition of his Jacksonville, Fla., competitor on a car of finished material, the manufacturer at Thomasville would have to absorb $54 for each car of finished material.

Should the manufacturer at Thomasville and Jacksonville, both buy logs at Suwanee, Fla., the manufacturer at Thomasville would have to pay rate of $40 per car for a distance of 112 miles, whereas his competitor at Jacksonville would only pay $17 per car for a distance of 135 miles, and the manufacturer at Thomasville would have to absorb $69 on each car of finished material before he could meet the competition of his competitor at Jacksonville.

Should the manufacturer at Thomasville and Jacksonville both purchase logs at Padlock, Fla., the manufacturer at Thomasville would pay a rate of $42.50 per car for a distance of 123 miles, and his competitor at Jacksonville would only pay $16 per car for a distance of 123 miles, or identically the same distance as Thomasville, and yet the manufacturer at Thomasville would have to absorb $79.50 on

each car of finished material before he could meet the competition of his competitor at Jacksonville.

The outbound rates on finished material, of course, are not involved in this proceeding and the discrimination shown on this exhibit only applies to the freight cost on the inbound movement of logs, assuming that both Thomas-
[fol. 501] ville and Jacksonville purchase their logs at the same points in Florida. Of course, whatever advantage Jacksonville should have in the outbound movement of finished material the manufacturer at Thomasville would have to absorb in addition to the discrimination on the inbound movement of logs.

Sheet No. 9 is designed to show the discrimination against the manufacturer of logs at Quitman, Ga., in favor of Jacksonville, Fla., assuming that the manufacturer at Quitman and Jacksonville both purchase their logs at the same shipping point in Florida.

It will be noted that should the manufacturer at Quitman and Jacksonville both purchase logs at Bakers Mill, Fla., Quitman would pay a rate of $32.50 per car for a distance of 72 miles, whereas his competitor at Jacksonville would only pay a rate of $17 per car for a distance of 138 miles, and before the manufacturer at Quitman could meet the competition of the manufacturer at Jacksonville, the manufacturer at Quitman would have to absorb $46.50 on each car of finished material, notwithstanding the fact that both Quitman and Jacksonville purchased their logs at the same shipping point in Florida, and the distance from this shiping point to Quitman is 66 miles nearer or less than it is to Jacksonville.

Should the manufacturer at Quitman and Jacksonville both purchase logs at Suwanee, Fla., the manufacturer at Quitman would pay a rate of $35 per car for a distance of 85 miles, whereas his competitor at Jacksonville can get a
[fol. 502] rate of $17 per car for a distance of 135 miles, and the manufacturer at Quitman would have to absorb $54 on each car of finished material before he could meet the competition of his Jacksonbille competitor, notwithstanding the distance from Suwanee to Jacksonville is 50 miles greater than Suwanee, Fla., to Quitman, Ga.

Should the manufacturer at Quitman and Jacksonville both buy logs at O'Brien, Fla., the manufacturer at Quit-

man would have to pay rate of $40 per car for distance of 111 miles, whereas his competitor at Jacksonville would only pay a rate of $14 per car for a distance of 110 miles, and the manufacturer at Quitman would have to absorb $78 on each car of finished material before he could meet the competition of his Jacksonville competitor.

As stated, with reference to previous exhibits, the discrimination shown on this sheet only applies to the inbound movement of the logs, and assuming that the outbound rates on the finished material were the same from both Jacksonville, Fla., and Quitman, Ga., it would be impracticable for the log manufacturer at Quitman to make these absorptions without suffering heavy losses, unless there is more profit in the manufacture of logs than I have been led to believe.

Sheet No. 10 is designed for the purpose of showing the discrimination against Valdosta, Ga., in favor of Florida manufacturing points.

Should Jackson Brothers Lumber Company at Valdosta [fol. 503] buy logs at Bakers Mill, Fla., a distance of 55 miles, they would pay a rate of $27.50 per car; whereas their competitor at Jacksonville, Fla., could buy logs at Bakers Mill, Fla., and get a rate of $17 per car, alt-ough the distance from Bakers Mill, Fla., to Jacksonville is 138 miles, and before Jackson Brothers could meet the Jacksonville competition they would have to absorb $31.50 on each car of finished material.

Should both the manufacturers at Valdosta and Jacksonville buy logs at Suwanee, Fla., the manufacturer at Valdosta would have to pay rate of $30 per car for distance of 68 miles, and the manufacturer at Jacksonville would only pay $17 per car, for distance of 135 miles, and the manufacturer at Valdosta would have to absorb in freight charges on the inbound movement of logs $39 per car on each car of finished material, although his logs were hauled about half the distance as his competitor's at Jacksonville.

Should Jackson Brothers or any other manufacturer at Valdosta, and his competitors at Jacksonville, buy logs at McAlpin, Fla., the Valdosta manufacturer would pay rate of $35 per car for distance of 87 miles, as compared with his competitor at Jacksonville, paying $16 per car for a distance of 117 miles, or a discrimination against the

Valdosta manufacturer of $57 per car on each car of finished material.

Should the manufacturer at Valdosta and Perry, Fla., both buy logs at Mandeville, Fla., the manufacturer at Valdosta would pay rate of $45 per car for a distance of 144 [fol. 504] miles, whereas his competitor at Perry, Fla., would only pay a rate of $17 per car for a distance of 148 miles, and the manufacturer at Valdosta would have to absorb $84 on each car of finished material before he could meet the competition of his competitor at Perry, Fla., on the inbound cost of logs alone.

It is our contention that Jackson Brothers Lumber Company or any other manufacturer of logs at Valdosta, Ga., should be afforded the same opportunity of buying logs in Florida on equal basis with their competitors located at Jacksonville and Perry, Fla., or in fact located at any other point in Florida.

Sheet No. 11 is designed to show the discrimination against the manufacturer of logs at Waycross, Ga.

Should the Enterprise Manufacturing Company, or any other log manufacturer at Waycross buy logs at Jasper, Fla., they would pay a rate of $30 per car for a distance of 67 miles, whereas their competitor at Jacksonville, Fla., can buy these same logs and get a rate of $17 per car, although the distance is 142 miles, and it will be necessary for the Enterprise Manufacturing Company at Waycross to absorb $39 per car on each car of finished material before he can meet the competition of his competitor at Jacksonville, Fla.

Should the Enterprise Manufacturing Company at Waycross, and his competitor at Jacksonville, buy logs at Rixeford, Fla., the Enterprise Manufacturing Company would pay a rate of $32.50 per car for a distance of 78 miles, [fol. 505] whereas his competitor at Jacksonville would only pay $17 per car for a distance of 132 miles, and the Enterprise Manufacturing Company would have to absorb in this instance $46.50 on each car of finished material in order to meet the competition at Jacksonville.

Should the manufacturer at Waycross and Jacksonville both buy logs at O'Brien, Fla., the manufacturer at Waycross would pay rate of $37.50 per car for a distance of 101 miles, whereas his competitor at Jacksonville would only

pay a rate of $14 per car for a distance of 110 miles, and the Waycross, Ga., manufacturer would have to absorb $70.50 on each car of finished material before he could meet the competition of his Jacksonville competitior.

Should the manufacturers at Waycross, Ga., and Perry, Fla., both buy logs at Raiford, Fla., the manufacturer at Waycross would pay a rate of $40 per car for a distance of 114 miles, whereas his competitor at Perry, Fla., would only pay a rate of $16 per car for a distance of 117 miles, and the manufacturer at Waycross would, therefore, have to absorb $72 on each car of finished material before he could meet the competition at Perry, Fla. We again submit that the Enterprise Manufacturing Company, or any log manufacturer at Waycross, Ga., should be afforded the same opportunity of purchasing logs at Jasper and Rixsford or any other point in Florida at the same rate, distance considered, as his competitors at Jacksonville, Perry, or in fact any other manufacturing point in Florida.

[fol. 506] The intrastate rates in Florida are not confined in their application to Jacksonville and Perry and the complaint of the Georgia Commission is not confined to any particular manufacturing point in Florida, and Jacksonville and Perry were only used to illustrate the conditions as they exist. The Florida intrastate rates involved in this case apply also between any two points in Florida located on the Atlantic Coast Line Railroad for any distance up to 170 miles; therefore such points as Tampa, Lakeland, or any other manufacturing point in Florida on the Atlantic Coast Line can use these Florida rates for a distance of 170 miles.

The Georgia manufacturers at Valdosta, Waycross and other points located on the border of Georgia and Florida undoubtedly have to meet the competition of all of these Florida manufacturers on any business they secure in Florida; it therefore follows that the Georgia manufacturer would be at a distinct disadvantage in securing any business on the Atlantic Coast Line in Florida, even if the rates on the finished material are the same from Georgia into Florida as the rates on finished products intrastate in Florida (Tes. p. 36). There is a limit in the application of the rates on logs from Florida into Georgia. The rates published interstate from Florida to Georgia are confined

in application from certain stations in Florida and therefore the Georgia manufacturer could not draw logs from all points in Florida on this interstate scale, although the [fol. 507] scale is extended for a distance of 540 miles.

I have not prepared any schedule of rates to suggest being used as a means to remove the discrimination against Georgia manufacturers, as shown in our exhibit, but do suggest and contend that the rates now being operated in Florida be extended into Georgia for interstate application. (Tes. p. 36). It is not my understanding that the Florida Railroad Commission prescribed these intrastate rates in Florida. On the other hand, it is my understanding that the rates were voluntarily established either by the Atlantic Coast Line or its predecessors many years ago and were originally confined in application to one point of destination and applied only to movements of train-load lots.

This created discriminations against other manufacturing points in Florida that did not have the privilege of these rates, and the Atlantic Coast Line Railroad was ordered by the Florida Railroad Commission to remove these discriminations. In removing the discriminations, the Atlantic Coast Line elected to extend the application to all points within a distance of 170 miles, and to make them apply to single car movements.

The Atlantic Coast Line in every adjustment of which I have knowledge, where the Florida rates were involved, have always contended that the rates in Florida should be on a higher level than the rates in other portions of southeastern territory, and bearing this in mind, and the fact that they have voluntarily been operating this Florida log scale [fol. 508] for a number of years, I feel that this justifies the reasonableness of the Florida scale for interstate application into Georgia.

While this is not a revenue case, it is possible that the Commission will give some consideration to the possible effect on the Atlantic Coast Line revenues if these discriminations are removed by requiring the Florida scale to be extended into Georgia, and if so we would like to call attention to the impossibility of any extensive movement at the present time from Florida to Georgia on the present high interstate rates, and, therefore, it follows that if the Geor-

gia manufacturer is given the benefit of these Florida rates, the same as his Florida competitor, it will very materially increase the movement from Florida into Georgia and thus have the effect of creating new and increased revenues for the Atlantic Coast Line, rather than to decrease their revenues.

Cross-examination.

(By Mr. Thurtell:)

Various parties presented testimony before the Georgia Commission in 1921 relative to the matter of reasonable class and commodity rates, and the testimony also dealt with the rates on logs, and we are entitled to believe that based on that testimony and its best information the scale of rates which the Georgia Commission required the railroads to establish represented its best judgment as to reasonable rates at the time (Tes. p. 39). I assisted the Georgia [fol. 509] Commission in reaching a judgment as to these log rates.

"Q. Mr. Price, do you know of any reason, transportation or otherwise, why the rates on logs in Georgia might reasonably be higher than the rates applied from Florida into Georgia"?

(Objection; argument on the objection.)

"Examiner Hillyer: I assume, then, that the purpose of the question is to measure the rates in issue with the rates prescribed by the Georgia Public Service Commission?"

"Mr. Thurtell: Yes, sir."

"Examiner Hillyer: He may answer for that purpose."

(Objection, and argument on objection.)

"Examiner Hillyer: The Examiners are of the opinion that the question should be answered."

The Witness (Mr. Price, continuing): The rates between points in Georgia, the intrastate rates in Georgia are not under consideration here, and the rates which you referred to as covered by the Georgia Commission's order, have been cancelled, and have no legal standing, and as it is stated in the Commission's order of cancellation, the sub-

ject is being held on the docket of the Georgia Commission for further consideration, and the answer to your question calls for further investigation on the part of the Georgia Commission as to what should be the reasonable rates between points in Georgia (Tes. p. 43).

I do not think that the interstate rates from Florida into Georgia should be higher than the intrastate rates between [fol. 510] points in Florida. That is our contention here and I have answered your question the best I can.

"Q. Do you contend that the rates from Florida into Georgia may reasonably be lower than the rates that may reasonably be applied locally in Georgia?

"A. I am making no contention at all about the Georgia intrastate rates. As to whether, according to my best judgment, these rates from Florida into Georgia may be reasonably lower than may reasonably be applied in the State of Georgia, that is a matter of investigation which the Georgia Commision is now making and I cannot answer that."

"I have made no study of whether the rates from Florida into Georgia should be lower than are applied from South Carolina into Georgia for like distances, and I would not like to express an opinion on it. My study in this case has been with regard to the rates from Florida into Georgia as compared with the rates between points in Florida as complained of by the Georgia Commission."

"Q. Do you know of any reason why rates from Florida [fol. 511] into Georgia should be lower than may reasonably be applied in the State of Georgia, or from South Carolina into Georgia, or from Alabama into Georgia, or from any other contiguous state into Georgia."

"A. Without having made any investigation since the cancellation of the Georgia Commission's order I have made no investigation in regard to the South Carolina rates, which are not involved here, but which as a wild guess I would say no."

Mr. Perry (for the Railroad Commission of Georgia): That concludes our case in chief, your Honor.

Examiner Brown: Are there any intervenors on behalf of the complainants here who wish to offer testimony?

(No response.)

Examiner Brown: Defendants, or intervenors on behalf of the defendants, may proceed now.

Mr. Perry, have you examined the petitions of intervention, and have you any objection to them?

Mr. Perry: No objection to the intervention as proposed by the Roofer Manufacturers' Club of Georgia. We object to the petition for intervention of the Cummer Cypress Company. I also object to paragraph 8 of the Putnam Lumber Company's petition for intervention.

(Ground of objection stated.)

(Mr. Perry, continuing:) I also object to the petition of intervention of the Wilson Cypress Company.

(Ground of objections stated, and arguments, Tes. pp. 48 to 56.)

[fol. 512] Examiner Hillyer: It seems to me that the intervenors ought to be able — state in a general way their position towards this complaint in some manner.

Mr. Cotterill: The objects which the petitioners for intervention have are to undertake through this proceeding to avoid any action by this Commission which would have the consequence of changing directly or indirectly, the rates within Florida to which reference has been made (Tes. p. 57). Now the manner in which we shall proceed to accomplish that object, whether it involves an intervention on our part in favor of the complaint, or against the complaint, is something to which we must still ask the privilege of awaiting developments in the case.

Mr. Perry: If your Honor please, as information, I want to ask him this question: Are you opposed or not to the extension of the Florida rates under review here, being extended into Georgia?

Mr. Cotterill: As to that, the policy has not yet been determined.

Mr. Perry: When can you tell us how you stand on that proposition?

Mr. Cotterill: Until we see what evidence the complainant submits calculated by it to establish a case of the unreasonableness of the higher interstate rate.

Mr. Perry: It seems to me, your Honor, that we are going to have a lot of repetition here, and a very awkward

presentation or development of the record. If a party is to be allowed at will, maybe at the end of the case, to tell us about a given position, then we may have to try this case over to a considerable degree. It certainly is a very vital, relevant matter, and it seems to me Mr. Cotterill ought to be able to answer now, because that is all there is in the case, it is all that has ever been in the case, it is all we are asking for and all we hope to gain.

[fol. 513] Mr. Cotterill: I thought the complainant had submitted its evidence in this case and was through. Now, this is a late time to raise the question as to what our duty was at the opening of the case.

Mr. Perry: It went off until this afternoon, your Honor, to be determined. We are at the opening, so far as that is concerned.

Mr. Cotterill: However, may I say as to this matter, or any other matter of like character, we are not here in an obstructive, evasive attitude in the least. We are altogether sincere in what I have said as to our desire, so far as we may be permitted to do so, to reserve the final declaration of our intentions, as long as we may be permitted to do so, or as long as in our judgment may be necessary. But, subject to a change of attitude, if you desire that we now present our case to you through counsel, we shall not hesitate to do it, of course, as a matter of courtesy to the Examiner, but we do think we should be permitted, having declared ourselves to the extent that we have, to reserve our judgment as to the policy concerning certain matters until the evidence concerning those matters shall have been completed.

Exam. Hillyer: The Commission only requires that you state your position with respect to your own rates. Florida's rates are the rates from points in Florida to points in Florida. As I understand it, you are here attempting to continue the present rates.

Mr. Cotterill: So far as this proceeding is concerned, we are attempting to avoid any action which the Commission might take calculated to change those rates, yes, sir.

Exam. Hillyer: And that you have not raised any issue with respect to the rates from Florida into Georgia?

Mr. Cotterill: We have not done so. Whether it should become to our interest to do so or not is a matter as to

which we have not yet been able to reach a conclusion, depending upon the whole evidence on that question.
[fol. 514] Exam. Hillyer: Your position has been stated sufficiently for the Commission's purposes.
[fol. 515] *that will shorten his testimony and perhaps be an economy of time.*

J. C. JACKSON was called as a witness and, being first duly sworn, testified as follows:

Direct examination.

(By Mr. Perry:)

My name is J. C. Jackson, Valdosta, Ga. I am a manufacturer of lumber at Valdosta. My business is of a nature to call for the desirability of procuring logs in Florida. We depend on the railroads for our supply of logs, largely. We draw very little logs from Florida now. We have shipped a few cars from Jennings, Fla., only. It is our desire to have a general flow of logs from Florida to Georgia; we would like to get logs in Florida. As to whether it is possible to have that addition to our present logging interests, we cannot haul over 30 to 40 miles on account of the rate. We cannot draw logs to Valdosta, Ga., from points off the Coast Line, in Florida to points in Georgia—from points off the Coast Line in Florida, from Florida to Georgia, the Southern, and the Georgia, Southern & Florida—we cannot meet the competition, on account of the lower rates in Florida, for one reason, and the rates we have are prohibitive anyway.

"Q. Are those rates which you term low rates in Florida of a nature and lower to the extent that you cannot buy logs in Florida and ship them to Valdosta in competition with manufacturers in Florida?
A. No, sir, we cannot meet competition."

We have business prospects along the line just enumerated, looking to acquiring logs in Florida, in mind now, about 190,000,000 feet that we are figuring on, about half way between here (Valdosta) and Jacksonville. It is not possible for us to acquire that interest in Florida and ship

[fol. 516] them to Valdosta under the present rates. We could not meet the Jacksonville competition. Jacksonville can haul its log- for about $3.10, and it costs us nearly $7. If the Florida rates were extended into Georgia we could move these logs or this lumber that I speak of. We could move that on the rate Jacksonville is getting for the same distance at a profitable handling of them.

The territory from which we draw logs is sufficiently, or nearly exhausted, as to make it desirable in the future to have new fields or territory for our logs. We have only about six months timber in sight in Georgia. We might possibly buy some tracts, but we have only about six months operation now. We would have opportunity to acquire additional timber as favorable as this we speak of in Florida, if we had this Coast Line rate in effect.

"Q. I mean if you had an even show as to rates with your competitor?

A. That is the best proposition I know of.

Q. How long would it take you to manufacture the output of this timber land that you speak of in Florida, into lumber?

A. About ten years.

Q. And it is impossible under the present adjustment of rates?

A. Yes, sir."

There is nothing else that I desire to state more than we are also prohibited from manufacturing lumber from a competitive standpoint from the nearer mills.

We lost a tract of timber last month at Jennings, Florida from the fact that the party in Jasper that bought them could buy them and pay more for the tract on account of their favorable freight rates. We had a rate of $3.10 a [fol. 517] thousand feet and they had $1.50, and we lost the tract on the same railroad, the same line.

There are other manufacturing lumber interests at Valdosta similarly situated to ourselves. The same facts as interfere with us, relative to the rates of which we complain, apply to J. N. Bray and Company, operators here. That is the only mill that is shipping logs (Tes. p. 64).

Cross-examination.

(By Mr. Burr:)

The rates I have reference to are Atlantic Coast Line rates and Jennings is not on the Atlantic Coast Line, but we are paying over the interstate route a higher rate than the regular Georgia rate or the intra-Florida rate. We are buying them over an interstate rate from Jennings and that rate is higher.

(By Mr. Burr:)

"Q. I just want to make it clear from your testimony that Jennings is not an Atlantic Coast Line point. That was the inference from your testimony. It is a Georgia Southern point."

"A. It has a 50-cent rate from Jennings."

The 190,000,000 feet of lumber which I said is between here and Jacksonville, is about ten miles beyond Lake City and lies along the Seaboard Air Line and the Atlantic Coast Line. We would bring it to the Coast Line. It belongs to some eastern interests. I was talking to the party and tried to make the deal with him last night and told him if we got this low rate—the Coast Line rate—extended into Valdosta we could figure with him, otherwise we could not. He was anxious for us to cut his timber (Tes. p. 65). It is not cut over land. It cuts 4,000 to the acre, which is about [fol. 518] the average in Florida. I saw his cruise on it (Tes. p. 66).

Cross-examination continued.

(By Mr. Thurtell:)

We ship our manufactured lumber to the East, largely. As to whether the same rate is applied to the east from Valdosta as from Jasper, I am not sure whether Jasper is in the same rate group as Valdosta, but there is not more than one cent difference. Jacksonville has I think a 2-cent better rate. Savannah, is, I am sure; I am not positive as to Jacksonville. Our competitor at Jacksonville has the steamship rate, the water rate, the port rate. But the rail rate is not very much different from our rate, but I am not sure as to the Jacksonville all-rail rate.

"Q. If I understand your objection to the present state of affairs, it goes to this point, that your rates to Valdosta, from these points in Florida, that you want to reach, and from which you want to draw timber, are higher for like distances, than are the rates from points in Florida to Jacksonville and other mill points in Florida—is that your position?"

"A. That makes it difficult for us to buy stumpage, and we are faced with the proposition of that nature. However, an equalization of that rate in Florida, we could lower our costs and our competition is the fir market largely now."

"Q. Oh, then, it is not the competition at Jacksonville?"

"A. It is not this local Florida business, because our property goes into the East. We are begging for lower rates, we are not only begging for these rates to be equalized, but we need a rate that we could do business on. We can't pay the prices in Florida stumpage and ship it across [fol. 519] the line on the interstate rate now existing, have not been able to so far."

I am in immediate competition with the Pacific Coast. I meet it every day in the high class lumber market. We have to face it every day at the eastern ports (Tes. p. 67).

I would be satisfied if the same rates were made to apply for like distances on this timber to Valdosta as are applied over like distances from this timber to mill points in Florida—the intrastate Florida rate would satisfy me.

I do not expect the Interstate Commerce Commission to do anything except to establish reasonable rates from Florida to Georgia—I should not expect them to do any-[fol. 520] thing but what is reasonable in the interests of the people. I am not prepared to say whether, after that reasonable rate is established, my complaint is satisfied if the same rates are made to apply for like distances from Florida to mill points in Florida as are applied for like distances from these timber tracts in Florida to mill points in Georgia. I figured this Coast Line rate, and figured we could do business on this rate. As to whether I have figured whether or not the other railroads could do business on any such rate, I am not figuring for the railroads.

Redirect examination.

(By Mr. Price:)

Jacksonville and other Florida points have to meet this competition from the West Coast, too, and, therefore, the rates we have to pay on our logs from Florida into Georgia puts us to a double disadvantage. We are at a disadvantage on the West Coast, and then that is increased by our high rates from Florida into Georgia. They can buy logs from any point the same distance that Valdosta is from Jacksonville in northern Florida, anywhere, even from Fanlew, Florida, or south of Perry, into Jacksonville, cheaper than we can haul them 35 miles. It leaves us practically out of competition all over the timber belt, except right on the border line where there is a two or three dollar freight rate now. We had occasion to haul logs from Cross City, about 120 miles. Jacksonville can haul those logs—I am guessing now, for this 120-miles [fol. 521] to Cross City, about the same distance as we are, they can draw those logs from Cross City for $3.10, and it costs us $8.50 on the interstate rate. They can haul them over the Coast Line for $3.10, and it costs us $8.50 on the basis of 5,000 feet per car load o. 50,000 pounds. If our rate from Florida into Georgia was on an equal basis with the rate form Florida into Jacksonville, we would be on an equal footing with Jacksonville to meet this western competition (Tes. p. 70).

(Witness excused.)

J. M. Simmons, called himself as a witness, and being first duly sworn, testified as follows:

Direct examination:

Mr. Examiner, I am here as an orphan child this afternoon representing myself, not as a witness for the railroads or the Commission or any of the bureaus or forest product associations, and I am going to tell the truth as it represents me, these conditions of scrambled eggs rates in the states of Georgia and Florida, represents my business (Test. p. 71).

I have three plants, I represent three plants, one at Thomasville, one at Bainbridge, and one in Tallahassee. I have five different rates for those three different places in the way of logs, and I am not here to say what the railroads ought to charge, if they are making money on the $8.55 rate in Florida, and an interstate rate of $25 for the same distance of 50 miles, they are making a dickens of a lot of [fol. 522] money over here, or losing a lot over there. I think that the interstate rate of $25 per car for 25 miles is prohibitive. It proves it, because there are no logs shipped. I don't buy any interstate because I can't pay the rate, and nobody else that I know of. There is a rate extending across the imaginary line between Georgia and Florida, and nobody using it. We would use it if it was reasonable, and I am going to say by reasonableness I do not mean $8.55, but I want to see this thing adjusted. I want to see a just rate put in at these different places, and make it equal to each and every one of us. I have at Tallahassee now on the Seaboard Air Line a rate for 50 miles of a certain price. I have a rate for 50 miles over in Georgia of another price, and we have a rate on logs across the line into Georgia of another price. We all have to compete with each other. I am not going to—I am not coming here to make a statement this afternoon for the benefit of the Florida mills, or for the benefit of the Georgia mills, I am making a statement this afternoon as I see it, to be just with the railroads, just with the manufacturers, and just to ourselves, where we meet the chief competition, put an equal rate, let it be reasonable, that is what I mean reasonable, and to show you how unreasonable the interstate rate is, nobody can use it, and if the railroads get up here and demand and ask you gentlemen to recommend the interstate rate over in Florida to Georgia, they won't haul any logs, it will be prohibitive. Now, what we want to do is to equalize this rate in a just and fair way. The shipper can't stand any higher rate [fol. 523] than we have got. I am perfectly willing to compromise this thing, and could have done it without all this racket if the railroads had sat across the table and said "Let us do what is right and you do what is right," put in the Seaboard Air Line rate that I am paying in Tallahassee, that is a fair and just rate. Our present rate in Georgia is too high at the present time, and what we want to do is to

adjust this matter to everybody equally. I will state to you that it has cost me a lot of business since I have been in business on account of the inequality of rates, and if I had time and you would let me and would not put me in jail, I could tell you some fool rates in this country that we run into every day, and how in the world they got into such a shape I don't know. This scrambled eggs proposition down here in this log business—in these log rates, is what we are up against right now, and I want to be fair with everybody, and that is the reason I would not go in with anybody, they can ask me all the questions they want when I get through, but I am not a man to get up here and swear that a railroad should make money on that rate, and another could not make money on that rate, but give them a fair rate, and let them get the thing equalized. I want to get this down sure. My remarks just now about a just rate and everything is what I want to see, but I want it known that the present existing rate from Florida into Georgia that we are contending about now is prohibitive in fact, because there is not a car of logs shipped, because nobody can handle them at that price, and we want to get these [fol. 524] scales on a reasonable rate, and when I say a reasonable rate, I mean that the present Georgia intrastate rate is a little too high. I am operating under it, and I ought to know whether it is or not. I am hauling logs, and —I am hauling logs under it, and I ought to know whether I am making any money or not, and we want to get this thing equalized so that the manufacturer, the shipper, the farmer, can sell his logs, and we can buy them, and we can make a little money, as well as the railroads are making money. This is no time for the railroads to be asking for any increase in rates of any kind (Tes. p. 75).

Cross-examination

(By Mr. Burr:)

I do not manufacture lumber for sale. My logs go into box material. I sell either in Florida or Georgia.

We ship in competition to the east, not to the west, and we ship as far east as New York City. We ship to New York I suppose 100 cars a year. We just tack that much on to the freight; we just add it to the price. The farmer

and the consumer pays the freight (Tes. p. 75). As to whether we ship to our mills in blocks or in logs, we ship mostly in blocks. There is a difference in rate but I do not know in favor of which. They make two or three different kinds of log rates down there. You can go to a log road and make a special rate with them. They will haul them over their road and make a rate. I understand there is a tariff issued on hauling logs over the Seaboard or the Georgia, Florida and Alabama, and I am not on the Coast [fol. 525] Line, except at Bainbridge. I am speaking now of in Florida, where you can use over their road your engines, and make a special rate, your own engine. In other words, you have a tram road connection with the Georgia, Florida & Alabama, and they will make us a rate to haul our own logs in over their road, and they will make us a rate to haul our blocks in. That is a trackage service arrangement and they are paid on a trackage rate. I understand there is a difference but I do not know positively.

We get our logs at Bainbridge from up and down the Coast Line and the Georgia, Florida & Alabama, in Georgia and in Florida too. We haul a heap of blocks from Quincy and Havana (Florida) to Bainbridge.

"Q. I understood you could not haul them."

"A. Oh, yes, the Georgia, Florida & Alabama is a good railroad. They give us the same rates they have in Georgia. They do not have any such rates as the Atlantic Coast Line does. We have a sure enough railroad in the Georgia, Florida & Alabama."

It is a good railroad (Tes. p. 77).

"Q. But I understood you on your direct testimony to say that there weren't any logs shipped across this imaginary line because the rate was too high, and now you say you do ship them from Florida to Georgia?

"A. I meant the Coast Line. We have the Coast Line here on trial. That is what I was referring to.

"Q. You didn't specify which one, you said broadly you [fol. 526] could not ship them across this imaginary line.

"A. This is the Coast Line."

As to the difference in the rate that the Coast Line charges across the imaginary line and the rate that the Georgia,

Florida & Alabama charges across the imaginary line for equal distances, the Coast Line Rate on a 50-mile haul, we will say, is $25; and I think the Georgia, Florida & Alabama on a 50-mile haul is $20.50. Under that rate the Georgia Florida & Alabama hauls the logs; we do not haul them. However, we don't haul any a distance of 50 miles on the Georgia, Florida & Alabama, it runs around about 20 miles or 25 miles. The rate for 20 or 25 miles is about $15. The rate on the Coast Line for 20 to 25 miles would be $17.50 to $20, somewhere in between that.

[fol. 527] It runs 20 miles to 30 miles, $17.50. But the Georgia, Florida & Alabama is a short line railroad and they get 20 per cent more than any other railroad. I get a cheaper rate over the Georgia, Florida & Alabama than over the Coast Line for an equal distance, although the Georgia, Florida & Alabama is a 20 per cent higher rated road. As a matter of fact, practically all we ship are blocks. We ship a few logs (Tes. p. 79). I understand that the block rates are involved in this proceeding, and there is not a bit of difference in the world in hauling logs and blocks because you can saw them up at your mill and saw blocks out of them the same as in the woods.

"Q. Then why don't you ship logs?

A. We may do it if we get the proper rate.

Q. I asked you if blocks are involved in this proceeding.

A. No, I do not think they are.

Q. And you say you ship entirely blocks, and not logs?

A. Yes.

Q. Is not your rate on blocks on the Seaboard Air Line lower than the rate on logs on the Seaboard Air Line?

A. I don't know. No, I don't think it is. I think it is the same thing."

"Q. If the only rates involved in this complaint are the log rates and you ship only blocks, what benefit would it be to you if the rates on logs were either reduced or increased?

[fol. 528] A. It would have a whole lot to do with me if these rates were all equalized, and to do that one thing, in justice to each one, and that would be a reasonable rate. (Tes. p. 80).

Q. Would you accomplish your purpose by raising the log rates in Florida?

A. No, sir, I think they are high enough now.
Q. That would equalize them, wouldn't it?
A. Put the others down to it."

I did not try to express any judgment as to what were reasonable rates on logs. The present Seaboard Air Line rate that we are paying in Florida is even above a reasonable rate, or about a reasonable rate, and the Georgia rate that we have at the present time is, I consider, above a reasonable rate, as too high, a little too high. I am talking as a shipper, not talking as to what the railroad ought to have to make revenue (Tes. p. 81).

What I ask the Commission to do here is to establish what are just and reasonable rates on this commodity as between points on the Atlantic Coast Line in Florida and points on the Atlantic Coast Line in Georgia; that is what I want. I am not expressing to them a judgment that the rate for 50 miles ought to be this and for 75 miles ought to be that, but that they should arrive at what are just and reasonable rates from the evidence and establish such rates. The interstate rate as I see it—it is unreasonable because there is [fol. 529] absolutely no business being done under it. I mean by that that the test of a reasonable rate, or that one of the tests of a reasonable rate, is whether or not shippers can use it. I do not think that these rates conform to that test—the present rates we have got now are fully high enough, or too high.

I can not and do not ship any logs over the Atlantic Coast Line Railroad from the State of Florida to Bainbridge, Ga.

(By Mr. Cotterill:)

"Q. If the rates on logs within Florida were to be advanced and made as high as the rates on logs from Florida to Georgia charged by the Atlantic Coast Line Railroad, would you be in any better or different position than you are now?

A. And I had to get my timber supply from that source?
Q. You can answer the question, sir, any way you wish.
A. Well, if I had to get my timber supply from that source I would just quit business and get out.
Q. In other words, sir, if the rates were to be advanced within Florida to the level of the now existing rates from

Florida to Georgia, you would not be aided in any way whatsoever, would you?

A. Not if I had to get my supply of logs that way—I couldn't navigate. I couldn't go ahead.

Q. And there would be no movement from Florida to Georgia on such rates?

A. I don't think so.

Q. Then the only relief that could be accorded that would give you any better position than you now occupy would be [fol. 530] to reduce the interstate rates from Florida to Georgia to a reasonable figure?

A. Yes, sir.

Q. And unless that be done it makes no difference to you what the rates are in Florida?

A. If a reasonable rate across the line, the interstate rate, is put in, it would not make any difference to me."

All that I have said of Thomasville is equally true of Bainbridge. I am interested in a plant there at Thomasville (Tes. p. 84) that ships blocks out of Florida over the Atlantic Coast Line and we have a block rate that differs from the log rate and the block rate is the cheapest.

As to whether we would be affected by what the log rate is to Thomasville from Florida, we would be affected, for if we had a reasonable log rate across there we would buy logs, especially at Thomasville—we have been buying logs—so we could saw the different lengths up at the mill, but we have not been able to buy logs across the line (Tes. p. 85).

As to whether there is any considerable volume of timber which is not already controlled on that line south of Thomasville, there is quite a lot of scattered stuff like we use. By that I mean that we must, that is, a crate and box manufacturer, especially when the farmers have lost everything they have in cotton, they have to sell a little timber to pay their taxes. A farmer will have 10 cars or 5 cars up and down the line of the railroad, and he cuts that and we buy [fol. 531] it. In other words, the timber that we might get on that line south of Thomasville in Florida would be a few logs that a farmer might get off his farm (Tes. p. 85). I don't know whether there is or is not any available body of land in that territory that has not been assumed or con-

trolled by other milling interests. We just buy it as it is offered to us.

Redirect examination.

(By Mr. Perry:)

I stated a moment ago that I didn't draw any logs from Florida from the Coast Line, from Florida to Bainbridge. I don't draw any because the rate is too high. I have no objection if we get a reasonable rate, interstate rate from Florida over into Georgia, the intrastate rate would have no effect on me. I mean by reasonable rate that the rate be made the same interstate as it is in Florida (Tes. p. 86). I do not intend to beg the question as to what is a reasonable rate. I might tell you, from your railroad earnings, it looks to me like $8.55 is a pretty reasonable rate, the amount of money the Coast Line is making, if you go by that. I am not attempting to urge upon the Interstate Commerce Commission that those rates applied in Florida on the Atlantic Coast Line Railroad are maximum reasonable rates for the transportation of logs. I don't think they are. They are a little bit low, and they might come up, and everything put equally up to the Seaboard Air Line rate (Tes. p. 87).

Examiner Brown: Mr. Perry, have you concluded with [fol. 532[your case?

Mr. Perry: Yes, sir.

Examiner Brown: It is understood that evidence is to be submitted on behalf of intervening carriers at this time.

Direct examination.

(By Mr. Thurtell:)

O. C. Abrams was called as a witness on behalf of intervening carriers and, being first duly sworn, testified as follows:

I am commerce agent of the Seaboard Air Line and have been in the service of that railroad for several years, with

over 20 years' experience in the freight traffic departments of numerous railroads in the Southeast (Tes. pp. 88 and 89). I think I am familiar with the rates on logs that are in issue in this complaint. Relative to the Seaboard Air Line's interest in the issues, there are many points in Florida and some in Georgia common to both the Atlantic Coast Line Railroad and the Seaboard Air Line Railway and obviously the application of the so-called Cummer scale published by the Atlantic Coast Line Railroad for intrastate application in its tariff I. C. C. B-2255, Supplement 29, affects the rates of the Seaboard Air Line Railway and for this reason the Seaboard Air Line Railway has filed a petition of intervention in opposition to this scale.

(Objection stated and argued.) (Pp. 89 to 96, incl.)

Examiner Hillyer: If the situation is clear to you now you may proceed with your witness, and if any questions are asked which are properly subject to objection, the objection may be considered.

[fol. 533] Mr. Burr: I would like to ask the Judge (Thurtell) this question: Your real interest in this case is to break up the so-called Cummer scale in Florida; isn't that so?

Mr. Thurtell: No, that is not so, but we do not want it extended into any territory served by the Seaboard Air Line Railway. That is the interest of the Seaboard Air Line Railway (Tes. p. 96).

The Witness: My Exhibit No. 2 is submitted as showing a comparison of various rates on logs, carloads, reduced to cents per 100 pounds. In column 1 is shown the so-called Cummer scale, which, it will be observed, is the lowest scale to be found and on the very lowest level and lower even than that prescribed by the Georgia Commission, but under suspension, as shown in Column 12.

(Objection.)

Examiner Hillyer: This exhibit No. 2 shows scales of rates on file with the various commissions, and with the exception of Scale No. 10, may have some bearing upon the reasonableness of the rates in issue, and it will be received. I think it is properly admissible for the purposes of comparison (Tes. p. 97).

(Argument—pp. 97 and 98.)

The Witness: I have not mentioned column 10 and do not intend to specifically. In columns 2 and 5 are shown rates arranged in 1915 at conference with the Railroad Commission of Florida and representatives of the Seaboard Air [fol. 534] Line Railway and the Atlantic Coast Line Railroad (Tes. p. 98). These rates represent Class P rates for a car of 40,000 pounds, then in effect, observing a minimum of $6.00 per car, and these low rates were induced to permit the movement of timber from small tracts which were not sufficiently large to warrant saw mill logging operations and which would otherwise go to waste, and by the further fact that it gives the small farmer some means of adding to his income during dull periods of the year, and the additional fact that the product of these short logs returns to the carriers for transportation in the way of crate material, and so forth.

Mr. Cotterill: I would make the further objection that reference to short logs or blocks be omitted. These rates are not in issue in this proceeding, they were excluded by the complainant.

The Witness: They are known as short logs. The rates apply specifically on logs of certain dimensions, not blocks. I will refer you to the explanation of the columns on the exhibit.

The reduced rates were published originally by the Seaboard Air Line Railway, effective February 1, 1916, in supplement No. 30 to Tariff R. R. 3097.

The rates shown in column 3 as published by the Atlantic Coast Line Railroad for interstate application are the same as were proposed to the Georgia Railroad Commission by the carriers and upon which hearings were had in September, 1921, and November, 1923.

[fol. 535] The rates shown in column 4, are the present day equivalent of rates prescribed by the Railroad Commission of Florida in its order 536, of December 16, 1916. The Seaboard proposed rates 35 cents per 1,000 feet higher and this meant rates for the shortest distance, about 117 per cent, and for the longest distance, about 107 per cent of the rates prescribed.

The rates in column 6 were originally published by the F. C. & P. Railway, and came to the Seaboard with the acquisition of that property in 1900. Our records do not

show the basis for the rates. These rates have application, however, only on logs on which specific commodity rates are not otherwise published. The rates shown in the other columns are fully explained in the exhibit.

These comparisons indicate clearly that the Cummer scale, in column 1, is unduly low and that the interstate scale in column 3 is not unduly high.

(Exhibit No. 2, Witness Abrams, being the document above referred to, was received in evidence.)

Cross-examination.

(By Mr. Cotterill:)

"Q. Mr. Abrams, when you use the expression that the charges within Florida referred to are unduly low, your whole thought in that regard is confined alone to the comparison which you have made of those rates and the others set forth on your exhibit?"

"A. Yes, by the comparisons I made I think they are unduly low."

"Q. Now, you have not indicated to us why it is that the [fol. 536] particular rates with which you make comparison are assumed by you to be reasonable themselves?

"A. I think so, sir, the explanation of the columns. I know that some of these rates were prescribed by the Interstate Commerce Commission and some of them were prescribed by the Florida Railroad Commission, some of them were proposed for publication and suspended, and finally cancelled by the Georgia Railroad Commission" (Tes. p. 102).

I am familiar with the circumstances in the Interstate Commerce Commission cases which I have cited, and I have read Mr. Wilby's testimony, the man who appeared for the city of Savannah, the traffic manager of the Bureau connected with the city of Savannah, who appeared for the Pierpont Manufacturing Company. That was an attack on the rates on logs from South Carolina points to Savannah by the Pierpont Manufacturing Company, and was participated in by the Southern Railway, represented by one witness, I think Mr. Geoghegan, and one witness, Mr. Wilby,

for the complainant, and that was the extent of the participation of carriers and shippers in that case (Tes. p. 102).

I am familiar in a general way with Docket 11,414, the Southern Veneer case, mentioned in Exhibit No. 2. That case was an attack on rates from South Carolina points on the Seaboard Air Line Railway and the Atlantic Coast Line Railroad to North Carolina points on the Southern Railway.

"Q. Do you know whether or not in that case there was [fol. 537] tendered to the Commission an issue involving the determination of any question other than the question of whether or not combination of local rates should be made on logs or should the existing standard of local rates in that territory be used for joint linehaul movement, plus an arbitrary?"

"A. As I recall it there was some contention that the combination of rates should apply."

The rates that were stricken from my exhibit (Exhibit No. 2) were a tentative statement by Examiner Cummings. (Tes. p. 104).

As to how the existing Atlantic Coast Line rates on logs from Florida to Georgia compare with the log rate scale which the southern carriers proposed to the Georgia and Alabama Commissions, I think they are the same rates. They are slightly higher than the Georgia Commission found to be just and reasonable for application within Georgia. The question whether there are any producing points in Florida for movements of logs to destinations in Georgia, which are common to the Coast Line and the Seaboard Air Line can best be answered by the statement that there is not any movement out of Florida to Georgia over our line, and has not been that we know of to any extent. There has been a small movement, I believe, from Georgia into Florida (Tes. p. 105). There has been no movement from Florida into Georgia that I have been able to develop.

Under description No. 11, which corresponds to my column 11, the rates which I have shown are those which [fol. 538] were prescribed by the Interstate Commerce Commission in Docket 11,414, otherwise known as the Southern Veneer Asso. Case, and they were prescribed for single line application. That case did not involve only

joint line movements from the Atlantic Coast Line and the Seaboard Air Line origins to destinations on the Southern Railway, because the Commission in that case prescribed a base scale for single line application. As to what single line movements were involved, we had a movement on the Seaboard Air Line into Charlotte, I think, or Rutherfordton. I know we had a movement over our line. The figures shown on that exhibit are those which were prescribed for single line application. There is no chance that I have shown the rates fixed for joint line application because the Commission prescribed a 2-½ cent differential to be added to these (Tes. p-. 106-107). As to whether I am sure that these rates have not already the 2-½ cents added in, of course it is possible that a mistake has been made, but I don't think so.

The Seaboard Air Line Railway does not always make the same rates for the same length of haul on the same commodity over all parts of its systems. If there were shown to me a mere difference in rates on a given commodity for a given length of haul, charged by the Seaboard Air Line in one instance, as compared with another, I would say ordinarily that that difference would be justified by some particular reason, that there would be some reason for it. There might be different conditions under which two rates were made, and different characters of conditions to which they were made to apply.

[fol. 539] As to what, if any, investigation I have made as to the conditions of movements under which these rates within Florida here discussed apply, viz, the Cummer scale (Tes. p. 107), or the Altantic Coast Line Scale—well, I don't know definitely, but I do understand from a long experience in this territory that logs are moving over the Atlantic Coast Line under this Cummer scale.

"Q. Do you know anything of the conditions under which they are moved?

"A. What do you mean?

"Q. I mean transportation conditions?

"A. Do you mean the movement in solid trains, or in separate carloads?

"Q. That may be one.

"A. No, I would prefer that the Coast Line witness testify as to that."

I would like to leave it to Mr. Perrin to tell you about that movement, to speak for itself, whatever he shows in connection with the Cummer scale. When I condemned the Florida rates as being unduly low I would not admit that I had failed to make any investigation, or to inform myself as to the conditions under which those rates apply (Tes. p. 108), but I did not make any particular investigation. I know in a general way, as I have stated—I have been in this territory practically all of my life, I have worked for the Atlantic Coast Line, I worked for the Plant [fol. 540] System, and I understand in a general way that most of us get our information, that there are logs moving under the Cummer scale. As to whether there is something peculiar and differentiating in these movements, I suppose there is something peculiar which will be explained to you.

"Q. You know there is something peculiar about those movements that acount for thid difference in rates, do you not?

"A. I suspect very strongly that there are conditions on that scale."

"Q. You understand that there are certain peculiarities surrounding the handling of this traffic in Florida to which these particular Florida rates apply, do you not? (Tes. p. 109.)

"A. No, I do not understand that. What I had in mind was that there were some peculiar conditions leading to the establishment of this scale. Now, as to any unusual conditions under which this stuff moves, I do not know."

I made no investigation whatsoever as to that particular feature of the transportation conditions, no. I told you to begin with, on the basis of these opinions, I feel that the rates are unduly low.

"Q. But I thought you agreed that a mere difference in rates did not establish the fact that a higher rate was unreasonable, or a lower rate too low, unless you know something of the circumstances and conditions under which those rates were established?

"A. I do not believe I follow that exactly. You said if [fol. 541] there were different rates over different parts of the Seaboard Air Line, would there not be different condi-

tions which brought about those rates; and I said, probably that would be so.

"Q. Why do you say there is no difference in the case of these rates——

"A. There is no reason why I should assume it.

"Q. Why do you assume that the Atlantic Coast Line would be moved by different conditions than those influencing the Seaboard Air Line? (Tes. p. 111.)

"A. Because I have had a little something to base my assumption on in the case of the Seaboard Air Line.

"Q. Do you think, then, that the Atlantic Coast Line might make a difference in rates for corresponding lengths of haul on a given commodity, without any particular reason for making the difference, but that the Seaboard Air Line would always have a reason?

"A. I do not think any such thing.

"Q. Does not what you have said amount to that?

"A. No, sir; you may put that interpretation on it, but I don't."

I am not familiar with the circumstances of transportation and the rates on our line affecting movements on behalf of the Roux Company at Lake Garfield, or R. L. Dulaney Sons at Bradenton, nor am I familiar with the conditions which led up to the establishment of some particular commodity rates; no, sir; I am not familiar with the trans-[fol. 542] portation conditions affecting movements to these particular people and places, no, sir (Tes. p. 111). I can have no answer as to certain rates on movements of the Seaboard Air Line for the Cummer Cypress Company, Otter Creek, and I don't know anything whatsoever of these rates, or the circumstances under which they apply, no sir, nor the Gress Manufacturing Company at Jacksonville. Of course, we have lots of rates, we have a log tariff there, we have lots of rates that are less than the scale, but they were put in for particular reasons, competitive reasons, and others, transportation circumstances, generally, competition and general transportation conditions. It is a matter of fixing a rate that we can probably get a little money out of and get some of the business that is moving (Tes. pp. 112).

"Mr. Burr: I wish to correct the witness, when he said a while ago that the short log rates he testified to were prescribed by the Commission. I want to correct him to say that they are agreed rates between the Seaboard Air Line and the Commission of Florida. They have exhibited an order to me, but it does not cover the short logs that I am referring to, as far as I can tell from an examination of it. There are two pages of it.

"The first point that I take issue with Mr. Abrams on is the statement that he made to the effect that the Commission issued an order on these column 5 rates. Column 5 on this exhibit, are the short log rates. That was arrived at [fol. 543] by agreement with the Seaboard Air Line, partly by correspondence, and possibly partly by conference. The order which he has there and which he is relying on and which reads, logs six feet and over, was at the request of Mr. Capps, also, because Mr. Capps wanted to get Doyle's measurement in on logs. The only difference between what Mr. Capps asked the Commission to do and what is included in the order is a little difference in the scale" (Tes. p. 113).

[fol. 544] "The Witness: Yes, sir. 35 cents per 1,000 feet less than Mr. Capps asked for. I didn't say anything about column 5 in connection with the order."

"Mr. Burr: No, but you said column 5, and column 5 refers to short logs."

"Examiner Brown: The order of the Florida Commission is not in evidence so it cannot be considered in any way. That would be the best evidence as to what the Florida Commission did. It has not been presented here as an exhibit."

"Mr. Thurtell: Mr. Examiner, this all happened some time ago. It is quite possible for an error to arise in the matter of how these rates came into being. Mr. Abrams has there a copy of an order issued by the Railroad Commission of Florida which he believed to be applicable, and the order which eventually produced these rates. I think we ought to do this; if the Examiner will permit us, within ten days we will file with the Commission, giving a copy to Commissioner Burr, and any others who want it, a copy of this order which we are not now prepared to file as an ex-

hibit. Comparison of the order with the present rate might possibly lead to the correct conclusion as to how these rates came about, and whether or not they correspond with the rates shown in these columns" (Tes. p. 114).

"Mr. Burr: I have no objection to his putting that in there. The only thing I questioned was the impression that he gave that the Commission prescribed these rates that he is referring to, the inference being that the Com- [fol. 545] mission on its own initiative did that—you could draw no other conclusion from it—when, as a matter of fact, his own vice president asked for the rate, and the only difference in what he asked and between the order, is a small difference in the rate itself, and as to short logs, that was entirely by agreement, and I don't want the impression created here that it was done, and perhaps done over the protest of the Seaboard Air Line Railroad."

"Examiner Brown: The position of the Florida Commission is clear, and the order so far as it is concerned, will speak for itself" (Tes. p. 115).

(Witness excused.)

J. C. Jackson was thereupon recalled as a witness and having been previously sworn, further testified as follows:

Cross-examination.

(By Mr. Cotterill:)

I own and operate a mill in Valdosta. We specialize in flooring and my principal market for flooring is in the East. Aside from the other mills, our main competition on yellow pine is the Alabama mills on the flooring. In addition to that, for the last year we have had to meet the competition from the northwestern markets—Pacific Coast competition through the Panama Canal. Our existing source of supply on logs in Georgia is nearly exhausted. I have been dickering for some stumpage over the line in Florida.

"Q. Now, you say if your rate, or if the freight rate of the Atlantic Coast Line Railroad to Valdosta, from some shipping point near that stumpage, were to be reduced, then it would make the purchase of that stumpage by you pos-

[fol. 546] sible, and its use in the manufacture of flooring possible, as well?

"A. Yes, sir."

If the freight rate of the Atlantic Coast Line Railroad from a convenient shipping point in the vicinity of that stumpage to Valdosta were not to be reduced, but all of the rates of the Atlantic Coast Line on logs in the State of Florida were to be increased, the freight would be so heavy—we could not pay over $4 in the manufacture of pine pogs; that is the point exactly. I mean by my testimony that if I could obtain a reasonable rate from the stumpage area that we are speaking of in Florida to Valdosta, then in that event I could buy that stumpage and ship it to Valdosta; that is it (Tes. pp. 117-118). But apart from that, the matter of the general level of Atlantic Coast Line rates on logs throughout the States of Florida hasn't anything to do with our buying and marketing in the East. We could not buy that stumpage if the Atlantic Coast Line rates on logs all over the State of Florida were increased. It would not help me a bit; and that would not in any manner induce me to ship from Florida into Georgia; but if Jacksonville or the coast markets have a better rate than we have, then of course they are able to buy this same stumpage at the same distance, while we are prohibited. That is the point. If the other rates were put up in proportion to these rates for Jacksonville, on the 60 miles to Jacksonville, and a 60-mile haul to Valdosta, we would be on a parity so far as the freight rate is concerned. But the [fol. 547] rate is too high from the tract I spoke of, we could not buy that on the present rate (Tes. p. 118). If the present rate stood to Valdosta, and the Atlantic Coast Line rate to Jacksonville were increased, I would not buy that stumpage, on this market, but it might prevent the other fellow from buying it. If the rate was put up on him it might prevent him from buying it, and we would stand an equal show to get it at some later date.

(By Mr. Adair:)

"Q. Mr. Jackson, then the fact is that what you want to do is to depress the price of stumpage, is it not; isn't that the long and short of it?

"A. Depress the price of stumpage?
"Q. Yes, sir.
"A. No, sir."

The Jacksonville man could afford to go in there and pay more for this stumpage than I could afford to pay; that is true. And the reason why I could not buy this stumpage is that I could not pay the heavy freight (Tes. p. 119). If the Jacksonville man's rate was the same as mine I could not buy it; neither could he. Then the price might come down, and one of us might be able to buy it.

I have been conducting a saw mill business in Valdosta proper for about two years. We have been operating 20 miles above here for three years. Our annual cut is about 10,000,000 feet at this point. I have another mill at Talla- [fol. 548] poosa, Georgia, where I cut about 20,000 feet a day, or about 5,000,000 feet a year. We sell our output through brokers very largely, brokers and lumber yards. I think—well, I do not know definitely whether or not any of the Florida mills make any flooring that comes in direct competition with me. I think the Cummer Lumber Company in Jacksonville makes flooring. I am not positive. They used to make it, I know, a few years ago, but I don't know what they are doing now. I don't feel it. If somebody was ready to swear that the Cummer Lumber Company quit making flooring some five years ago I would not contradict it. Our main competition is primarily Alabama, Louisiana and Mississippi. All those flooring mills of course we have to meet competition with them. Last year the Pacific Coast competition was very keen. Whenever the eastern market has been in any way good in recent years, anything that would incline to elevate the price of our southern products, that would immediately bring about the competition from the Pacific Coast. That has been the thing that has been keeping me awake at nights (Tes. p. 121).

"Q. Now, may I inquire of you with respect to this 190,-000,000 feet of timber that you spoke about on your direct examination—who is the owner of that timber?
"A. Mr. Montague.
"Q. Isn't that the tract known as the Ottinger and Russell tract?

"A. No, sir, it is not—now, I can't tell you that, it may [fol. 549] be. I don't know much about the name. Isn't that tract down near Cross City? I don't know, sir."

"Q. In what counties is that 190,000,000 foot tract—in Florida?

"A. It is in Hamilton, and I don't remember the other two; it is in three countries. It lies in between Lake City and Jacksonville and a little north of Lake City."

"Mr. Perry: If your Honor please, it may or may not be against the interest of this witness to tell exactly where that timber is located. He doesn't have to do it if he doesn't want to."

"Examiner Brown: The witness need not disclose any information which would be detrimental to his business; he need not disclose any trade information. You may proceed with the examination."

"Q. Do you object to stating how far that timber is in railroad miles from Valdosta?

"A. It is between 60 and 80 miles.

"Q. Is that via the Atlantic Coast Line?

"A. Yes, sir, that is via the Atlantic Coast Line.

"Q. Do you object to saying by what line of the Atlantic Coast Line those logs would move?" Tes. p. 122.)

(Objection and argument thereon.)

"Mr. Adair: It has been attempted to be shown that this particular tract of timber, which is the subject matter of this discussion—that this gentleman here, Mr. Jackson, is [fol. 550] being discriminated against in the purchase of it."

"Examiner Brown: Do you object to answering that question, Mr. Jackson?"

"The Witness: Yes, sir, I object to answering the question."

"Examiner Brown: For what reason?"

"The Witness: I do not care to disclose the exact location of the timber, a tract of that kind—there are a good many people after a tract of that kind. I may be talking to my competitor; I don't know."

It is in Hamilton County is as near as I would like to tell you. I realize that there is no through line, I think that is

what you are driving at. It is a branch line, and we would have to build some track to reach the Coast Line from part of it. I stated that the timber laid between Jacksonville and Lake City. It runs up within 40 miles of Jacksonville, so Mr. Montague told me. I have not been on this timber. I have only the cruise of the timber, an estimate. It runs up within 40 miles of Jacksonville, Mr. Montague told me that last night, and covers 50,000 acres of land, approximately. He did not tell me whether it is in a solid body. It is pretty well assembled. The timber that at one time I contemplated purchasing at Cross City was only a small tract, farmers, no big tracts there, only small tracts. I have now concluded not to purchase that. The rate is too high, we can't afford to buy it, we can't ship it here, and [fol. 551] pay $8 freight (Tes. p. 124). There was involved in that transaction only about 400 or 500 acres in the tract we were figuring on, but we intended to go on and see what we could get down there, we investigated the rate, and had the Atlantic Coast Line quote us a rate, and we dropped the matter entirely. We had in actual contemplation the purchase of 400 or 500 acres, yes, sir, a small tract. How much timber was on that I don't know. We didn't go to see about it. A party wanted to sell it, we told him we would investigate the freight rate, and we found it was so high we couldn't undertake it. That was about a year ago.

I have a mill at Tallapoosa, 64 miles west of Atlanta, on the Southern, on the Atlanta & Birmingham branch of the Southern Railway, it is just beyond Bremen, where the Central crosses the Southern (Tes. p. 125). It is not on the Atlantic Coast Line. I don't think we have any Atlantic Coast Line in that section at all. Atlanta would be the closest point, if it reaches Atlanta.

"Mr. Price: I would say Montgomery would be about the closest."

The Witness: It is, from the Florida line, about 320 or 325 miles. I have never hauled logs that distance from Florida. About 50 miles is our limit to haul logs on interstate rates, on any of our rates. The important part of our freight rate is our log rate, and not the outbound rate to eastern destinations. Our outbound rate is on an equality [fol. 552] with all other rates in this section. It is the in-

bound log rate beyond thirty miles. We handle a cheap commodity, yellow pine, the best average of that will run under $35 on this market, and if your freight runs over $5, with five or six dollars stumpage, manufacture is prohibited, and for that reason we confine our timber purchases under these present rates to about $4, stumpage usually $3, that is 20 to 30 miles. If we had this Coast Line rate we could haul logs for 160 miles for the same money that the other people are hauling 120 or 130 miles for, and it would cost us $8 on our interstate rate. In other words, our hands are tied on all stumpage beyond 40 miles of Valdosta, and beyond the Florida line, as the rates go in that direction.

Important eastern destinations for our lumber are Philadelphia and New York.

"Q. Let us take Philadelphia. How would the movement be under present conditions, from what point in Georgia would your logs move in to Valdosta?

"A. Well, at the present time we are getting our logs on the Georgia, Southern & Florida, there is nothing over 35 miles now."

I am getting it within a radius of 35 miles, but the timber is getting very scarce within this radius, and we are going to have to branch out or go out of business, and unless the lumber market should advance the log rates will have to be reduced if we are able to continue, our profits are very small now. We ship our manufactured product all-rail. Some lumber concerns buy logs within a radius of 30 miles [fol. 553] of Jacksonville, ship them into Jacksonville, and ship the manufactured product by water to Philadelphia—that is a normal movement (Tes. p. 127). That is done a great deal, but there is very little difference in the freight, that is on my class of stock flooring. The flooring rates are about the same, about 50 cents a thousand feet on flooring [fol. 554] cheaper, as I understand it. Our competition would be with the Jacksonville mill or with mills in other sections, about the same on flooring, because they usually ship all-rail, and if they don't the rate on flooring is about the same via the Clyde Line as it is all-rail from Jacksonville, very little difference. We have a broker in each city, a broker in Philadelphia and one in New York. The main competition which we have to meet today, the larger mills

at least, is the Pacific Coast. Now, the Jacksonville Lumber Company at Lockhart, Alabama, and Ritterville, Alabama, are the biggest manufacturers of yellow pine flooring in the United States, they really control the market. We add quite a little to the three inch flooring market ourselves. They control the prices so far as the south is concerned, but they tell us, and the lumber association tells us, that the main fight in holding the prices of the mills down is the Pacific Coast competition. That is the head of the whole reduction in price, that is what broke the market last winter, the Pacific Coast lumber was dumped right in there, and they sell fine, clear material, their timber is better than ours, it is free from defects, and so forth, and they go right in there on our prices, and meet competition. Alabama and the Pacific Coast have been controlling the prices that we have to meet in the east, and that is our principal market.

I am familiar with the issues in this complaint. The first I heard of it was about six months or eight months ago, in fact, I was instrumental in bringing it about, I presume. We felt the need of this expansion of the log rate. [fol. 555] That was the only log rate in existence we felt we could live under that we could use and make any money. We consulted the Atlantic Coast Line to know if they would not extend their Florida log rate into Valdosta, eliminating the Florida line. It is an endless track, there is no junction point, or anything, and we figured that they would put that rate into effect over here, and we were instrumental in asking the Commission to do it. I don't know that I have the refusal of the Atlantic Coast Line to extend the scale. Our point is we want the other roads to give us the rate. It is not only the Coast Line, but we need the rate from the Georgia, Southern & Florida, and the Georgia & Florida, all roads coming in here. I took it up with the Georgia Public Service Commission, not by myself, I had the assistance of some others. We discussed it, Mr. Simmons and our Company, and Mr. Harrell, a gentleman in the stave business here. There was a gentleman here for the Southern Saw Mill Company, Thomasville, I believe, representing the Southern Saw Mill Company, Mr. Farish, of the Southern Saw Mill Association (Tes. pp. 129-130). I am not sure now. I am not sure whether Mr. Farish was with us in that meeting or not, you had better cancel that assertion.

Mr. Simmons is the only one of those who had appeared here, and I heard his testimony that an increase in the Florida rates would be of no benefit to him at all except in so far as he wanted equalization, provided the interstate rate was the same price. Our position is different to that. [fol. 556] We need a low rate, we need a low log rate. If the Florida rate were increased, and there was no change made in the Florida-Georgia rate, it would help us a little to the extent of keeping Jacksonville timber purchasers out of our territory. They have such a low rate that they can go right in our back yard, within 30 miles, and we can't help ourselves. I am speaking of stumpage purchasers. That is the vital point of the saw mill, the ability to get stumpage.

"(By Mr. Adair:)

"Q. May I inquire of you, Mr. Jackson, who it is in Jacksonville that is coming up and trying to buy logs within 30 miles of Valdosta? (Tes. p. 131.)

"A. I don't know, sir, they are being bought. There was a tract bought in Jennings last week by some concern shipping the logs the other way, I don't know who it was.

"Q. It might be Jacksonville, or it might be Jasper?

"A. Any of those markets have a great advantage in the freight rate, they have the Florida intrastate rate against our interstate rate."

As a matter of fact I know that some Jacksonville interest recently attempted to purchase logs nearby Valdosta, in Florida, at Jennings, and there has been some hardwood logs, poplar logs, and cypress logs from Jasper. I attempted to buy them and couldn't reach them.

"Q. Who in Jacksonville was buying them, do you know?

"A. They had somebody buying for export.

[fol. 557] "Q. You don't know who it was?

"A. They claimed they were buying for export. I lost the logs. Anyhow, those logs went to the Jacksonville market. I don't know where this tract the other day of 5,000,000 feet went. That proposition I don't think was handled out of Jacksonville, I think it was handled out of either Lake City or Jasper or some of those points.

"Q. When you say it was Jacksonville then, you mean Florida purchasers? (Tes. p. 132.)

"A. Any Florida competition is what I mean."

Jennings is on the Georgia Southern & Florida. It is not on the Atlantic Coast Line. We do not have competition in Jacksonville on our flooring. We have competitors there and elsewhere at Florida points on the Atlantic Coast Line. We are not dependent on that market. They have an advantage in freight rates in bringing logs into their mill-points in Florida. If those rates were to be advanced between points in Florida it would relieve the advantage that the local Florida mill has.

That would be an advantage to us (Tes. p. 133). We would be in a better position if we were put on the same basis as the Florida manufacturer on timber within 40 miles of us. Otherwise the rate would be too high anyway. On timber within 40 miles, we can pay the interstate rate. [fol. 558] The Florida manufacturer has an advantage over us by reason of low rates on logs. Now, by whatever means that advantage may be taken away from the Florida manufacturer, if it were to be done, I would be in a better position then that I am now, yes, on Florida business—I would have a chance at the Florida business, whereas we have none whatever now. We want a chance at the Florida business, but we can live without it. I am bringing my needs here, those are so important that we can't evade it. We need a log rate, we can find a market (Tes. p. 134).

George F. Potter was thereupon called as a witness for intervening defendant and, being first duly sworn, testified as follows:

Direct examination.

(By Mr. Thurtell:)

[fol. 559] My name is George F. Potter. I am commerce agent for the Southern Railway System Lines, with headquarters in Washington, D. C. I have been with the freight traffic department for the past 11 years. I am reasonably familiar with the rates on logs that are at issue in this case.

I have prepared several exhibits to be used supplementary to my testimony (Tes. p. 135). The Southern Railway Company and the Georgia, Southern & Florida Railway Company are intervenors in this case. The Georgia, Southern & Florida Railway serves both Florida and Georgia. Its line extends from Macon to Jacksonville, the main line, and the division from Valdosta to Palatka, Florida. It intersects with the Atlantic Coast Line at some points in Florida as well as in Georgia. Whatever rates the Atlantic Coast Line may apply as to interstate traffic between Florida and Georgia will affect the rate of the Georgia, Southern & Florida (Tes. p. 136).

My first exhibit, which is Exhibit No. 3, is a comparison of the present rates on logs, to Valdosta, Ga., from Jasper, Fla. and Lake City, Fla., via the Georgia, Southern & Florida Railway and via the Atlantic Coast Line Railroad. The exhibit likewise shows the rate suggested by complainant.

It will be observed that on the basis suggested the rate from Jasper to Valdosta would be 2.1 cents per 100 pounds for 59 miles, while the present rate via the Georgia, Southern & Florida from the same point, where the distance is only 31 miles, is 4½ cents per 100 pounds.

A similar situation would exist from Lake City to Valdosta, Ga.

[fol. 560] We do not consider the present Georgia Southern & Florida rates unreasonable, and should the Commission prescribe the rates suggested by complainant interstate from Florida to Georgia via the Atlantic Coast Line, the Georgia Southern & Florida would be in the position of maintaining higher rates from Jasper and Lake City to Valdosta, than via the Atlantic Coast Line between the same points for greater distances. It seems obvious that the Georgia Southern & Florida could not hope to continue its present rates, and in reducing the rates between these common points the mileage scale of the Georgia Southern & Florida Railway would necessarily be affected.

My exhibit No. 4 shows a comparison of the scale suggested by complainant, that is, the Atlantic Coast Line Florida scale, with the intrastate mileage scale applicable in Florida, on the Georgia Southern & Florida Railway.

The Georgia Southern & Florida Railway extends 115 miles into the State of Florida, and the intrastate rates shown on this exhibit as applying on the Georgia, Southern & Florida are the Class P rates prescribed by the Florida Railroad Commission in its order No. 143 of February 16, 1914. These rates are the outgrowth, we might say, of rates which were prescribed by the Florida Commission—they are not the identical rates, of course They have been increased and reduced in the same manner as all the rates in the southern territory.

[fol. 561] The class P rates prescribed by the Florida Commission, as explained by the caption on exhibit, applies intrastate only within the State of Florida (Tes. p. 139).

Exhibit No. 5 is merely to further demonstrate the low nature of the scale suggested by complainant, by a comparison with the present intrastate rates applicable on the Georgia, Southern & Florida Railway within the State of Georgia.

My Exhibit No. 6 is a similar comparison and shows the interstate scale from Florida to Valdosta, and from Georgia stations, that is, stations within the State of Georgia, on the Georgia, Southern & Florida Railway, to Lake City, Fla.

In connection with this exhibit, I might state that there has been a movement on this scale, and logs are now moving from Florida, to Macon, Ga., via the Georgia, Southern & Florida Railway.

I have made no comparisons, or even shown what the rates are from Florida to Macon, because the distance is materially greater than that here involved, and it would have been of no particular benefit, but the rates to Macon are relatively aligned, or are on relatively the same basis as the rates shown in my exhibit No. 6, from points in Florida on the Georgia, Southern & Florida Railway, to Valdosta.

My Exhibit No. 7 is another exhibit which tends to show the low nature of the rates suggested by complainant.

This exhibit also shows the present interstate scale ap-
[fol. 562] plicable on the Atlantic Coast Line.

The comparison of the Atlantic Coast Line interstate scale with the interstate scale on the Georgia, Southern & Florida Railway, and also the interstate scale applicable

on the Southern Railway, will serve to indicate that the present Coast Line interstate rates are not unreasonable.

Exhibit No. 8 merely serves to further illustrate the low nature of the rates suggested by complainant, by a comparison with the rates applicable on the Southern Railway intrastate in Georgia, intrastate in North Carolina, intrastate in South Carolina, and intrastate in Alabama.

The rates applicable on the Southern Railway in Alabama as shown in the last column were prescribed by the Alabama Commission.

My Exhibit No. 8, note 6, on page 2 states that the rates were issued in compliance with an order of the Georgia Railroad Commission. This is an error. It seems that our Washington office had no advice of the revocation of the Georgia Commission's order as testified to by Mr. Price yesterday. These rates which were prescribed by the Georgia Commission, and were published in the tariff, were suspended, and our tariff showed the suspension until January 1, 1927, but those rates are now of course, to be withdrawn from the tariff. Those are the rates which were prescribed by the Georgia Commission. I think the date on which those were published is already in the record. The rates shown in these exhibits are in cents per hundred [fol. 563] pounds, and many of them are published in cents per car, as shown by the exhibits, and in order to make the comparisons, have been reduced to cents per 100 pounds.

(Intervenors' Exhibits Nos. 3 to 8 inclusive, were thereupon received in evidence.)

Cross-examination.

(By Mr. Cotterill:)

My objective here is by certain testimony to establish the claim that it would not be reasonable to apply to the Southern Railway a rate level on logs the same as or approximately the same as that applied by the Atlantic Coast Line Railroad between points in Florida. I wanted to demonstrate, and I think I have, that it would be detrimental to the interests of the Georgia, Southern and Florida Railway, and the Southern Railway, to have the Commission prescribe an unduly low scale of rates interstate from Florida into Georgia via the Atlantic Coast Line.

The Southern Railway has accomplished a more or less complete revision of its log rates throughout most of its system, and has put them on a scale that is generally known as the Southern Railway log rate scale, but we have not made a complete revision (Tes. pp. 142-143). I am not prepared to state to just what extent that revision has been made, without reviewing the tariffs, but we have an interstate mileage scale on the Southern Railway which is shown [fol. 564] on my exhibits here; on this Exhibit No. 8 I have portrayed the general rate level on logs on the Southern Railway in the Southern States. Apart from that showing, I do not believe that on this exhibit I have fully pictured the general rate level on logs in the southern territory except on the Southern Railway. I have never personally made an investigation to determine whether the Southern Railway mileage scale if applied by other carriers throughout the South and throughout their whole system, would effectuate a general increase in log rates in southern territory.

I have not shown on my exhibits any rates charged by the Southern Railway that are less than the Southern Railway mileage scale. I do not mean to suggest to the Commission that I have shown here all of the log rates of the Southern Railway, the same as that mileage scale (Tes. p. 144). We have some log rates that are less than that mileage scale. I would not say numerous. Yes, we have numerous point to point rates which may be lower than that mileage scale.

"Q. Yes, and even as to the Southern Railway, your exhibit does not purport to show the level of rates on logs in effect over the Southern Railway?

"A. I think the scale does show the general rate level. We have numerous point to point rates which are less than the scale, but I think this portrays generally the situation on the Southern Railway."

[fol. 565] When these point to point rates are less than the mileage scale, it is generally because of very substantial movements, but not always. That is one of the elements, no doubt, that has been considered, the movement (Tes. p. 145).

I have not undertaken to make any investigation so as to inform myself as to the transportation circumstances and

conditions to which the Atlantic Coast Line's Florida log scale applies. I have assumed in making these comparisons, that the situations were similar. I think it is fair to assume that, in the absence of any showing that they are not, in the absence of any showing to the contrary it is fair to assume that the transportation conditions are similar (Tes. p. 146).

[fol. 566] Redirect examination.

(By Mr. Thurtell:)

The Southern Railway Log Scale referred to in my cross examination is founded upon a decision of the Interstate Commerce Commission in the Pierpont case; it is practically identical with the so-called Pierpont scale. As to the territorial application of the rates prescribed by the Interstate Commerce Commission in the Pierpont case, I am not familiar with the decision in that case; I merely know that the scale which we have is the Pierpont scale; or substantially the Pierpont scale. I spoke of the Pierpont scale; I understand that a scale as such was prescribed (Tes. p. 147-148).

C. D. CHANCELLOR was thereupon called as a witness and, being first duly sworn, testified as follows:

Direct examination.

(By Mr. Thurtell:)

My name is C. D. Chancellor; assistant general freight agent of the Central of Georgia Railway. I have been in the employ of the traffic department of that railroad for longer than fifteen years, and I am familiar with the rates on logs which are in issue in this proceeding. The Central of Georgia business is largely intrastate in Georgia. The interest of our railroad in the outcome of this case is the far reaching effect if the Florida rates are extended into Georgia, the far reaching effect they may have on the Georgia rates intrastate, and also the Alabama rates, and the rates applicable from interstate points on the rails of the Central of Georgia (Tes. p. 149).

The Central of Georgia Railway intervened in this proceeding because it considers the rates now maintained by the Atlantic Coast Line Railroad for intrastate application [fol. 567] on logs within the State of Florida to be unduly and unreasonably low, and detrimental to its interests. If the very low rates in Florida are continued, and extended for application from Florida into Georgia, it is felt that these rates would possibly influence the Georgia Public Service Commission in prescribing rates for general application throughout the State of Georgia, and likewise would possibly influence the Alabama Public Service Commission in reopening the question of intrastate rates within the State of Alabama, with a view to making lower rates than those now in effect, which were prescribed by its order of April 29, 1925, docket 4136.

In other words, it is the far reaching effect that the continuation of the low Florida rates may have on the revenue of this company with which we are concerned.

It is my understanding that the presence of these Florida intrastate rates was seriously urged by the Georgia Commission as a reason for not enforcing its decision as to log rates in the State of Georgia.

Cross-examination.

(By Mr. Burr:)

I understand Mr. Simmons was the principal one who urged them. I don't know of any other of my own knowledge (Tes. p. 150.)

[fol. 568] J. A. STREYER was thereupon called as a witness and, being first duly sworn, testified as follows:

Direct examination.

(By Mr. Thurtell:)

My position with the American Short Line Association is Traffiic Manager, in charge of the southern territory. The interest of the people I represent in the outcome of this pr-ceeding is:

The Georgia Public Service Commission asked the Interstate Commerce Commission to prescribe reasonable and just rates interstate over the Atlantic Coast Line R. R. from Florida into Georgia. The short lines represented by the Association, from past experience, realized that whatever is prescribed will ultimately have an effect upon their rates,

I have an exhibit here which I desire to introduce and I think it will be helpful to the Commission in arriving at a just and reasonable rate to be prescribed by them. The interest is purely a financial interest, because whatever is prescribed for the Atlantic Coast Line, we feel will seriously spread to the other trunk lines in Georgia, and will then reflect itself upon these short lines. There are short lines which are engaged in transportation between Georgia and Florida and my exhibit in its different pages may illustrate my point.

On page 1 of this exhibit, the first column shows the rates that are in effect today over the Georgia, Florida and Alabama Railroad, which operates from Richland, Ga., to Carrabelle, Fla., with a branch to Quincy, Fla., that are in effect interstate rates.

These rates when they were first put in over the Georgia, Florida & Alabama, applied per car of 30,000 pounds. Today they apply per car of 40,000 pounds, and the minimum was increased by that railroad in order to try to help Mr. Simmins of Bainbridge. Mr. Simmons wanted to [fol. 569] draw some logs from Florida. We had a per car rate of 30,000 pounds minimum, excess in proportion, and it was increased to 40,000 pounds and the rates remained the same. That is now a per car rate of 40,000 pounds, excess in proportion. This is the scale of rates that Mr. Simmons yesterday, I understood, said was a good scale of rates, and was perfectly satisfactory, at the same time saying that the Georgia Rates were entirely too high.

At this time I desire to call attention to column C on this exhibit. You will notice the Georgia rates are practically in every instance, these rates are higher than the present Georgia rates today. The rates I am talking about, I have already said that the minimum was 40,000 pounds, excess in proportion.

As to the next column, column B, that is the Georgia,

Florida & Alabama intrastate rates within the State of Florida. The minimum on those rates is 30,000 pounds per car, excess in proportion.

I desire to call attention to the fact that these rates, intrastate in Florida, were issued by the Georgia, Florida & Alabama Railroad, under protest, in compliance with Order No. 431 of the Railroad Commission of Florida.

Column C, I have already referred to as the intrastate rates in Georgia, over the Georgia, Florida & Alabama, a [fol. 570] minimum car of 40,000 pounds, excess in proportion, and this mileage scale of rates is generally applicable intrastate on the short lines in Georgia, which is Column C. Then columns E, F and G, cover the Florida lines.

Column E is the Tavares & Gulf Railroad scale, and the reference is shown on the second page of the exhibit.

Column F shows the intrastate rates in Florida, over the Tampa & Jacksonville, and the Alabama & Western Railroad now, formerly the Birmingham, Columbus & St. Andrews Bay.

Column G shows the intrastate rates applicable over the Marianna & Blountstown Railroad.

Column H is the interstate rates of the Marianna and Blountstown Railroad. In this column the rates are shown as applying in cents per 100 pounds.

The minimum per car on these Florida rates referred to in columns E. F, G and H, is 30,000 pounds, excess in proportion. Those three columns, E, F and G, are applied per car of 30,000 pounds. If I sought to contrast those rates with the rates in the first three columns where the car is a 40,000 pound car, I would have to increase each of those rates in columns E, F and G by one third. But the way the rates were published and applied, that is the correct way to show them, as they are shown in the tariffs.

On the third page of this exhibit is a comparison of the log rates in carloads, in cents per 100 pounds, intrastate in [fol. 571] South Carolina, over joint hauls, as between a standard railroad and a short line railroad.

At this point I desire to say this, that in the majority of cases, logs originating upon short line railroads are destined to points beyond the rails of those railroads. Now, I recall that when the 40,000 pound minimum was established in Georgia, for instance, it was with a view of the lines—it

was first established, if my recollection serves me, by the railroad that received the outbound products from a certain large manufacturer, and the Georgia Commission held a hearing and prescribed the 40,000 pounds, and it was based upon the theory that the carriers would receive an outbound haul upon the manufactured product. Now, that is not true in all cases, and in the majority of cases, with the short line railroads. These logs leave their rails and they very seldom see anything in return in the way of a manufactured product. I wanted to make that clear. So, therefore, the majority of the logs that are handled by these [fol. 572] short line railroads is joint traffic. That is, as a rule it is a haul between a standard railroad and a short line railroad, and I have brought this exhibit to you here for the purpose of showing a comparison as to the present rates in South Carolina today, and the rates that were prescribed by the Georgia Public Service Commission in docket 15416, and that were subsequently postponed from time to time and finally cancelled on September 28, 1926.

The object of this is—it is my thought and belief that the Georgia Public Service Commission at that time considered these just and reasonable rates, or they would not have prescribed them.

The minimum weight in South Carolina is 24,000 pounds. I wanted to call your attention to that.

The next page of this exhibit is practically the same information, being a comparison of the single line scale in South Carolina, using the Northwestern Railroad of South Carolina, a short line railroad, and the reason I used this railroad was that the scale of that railroad extended more miles than any scale I could locate. They are practically all the same on the short line railroads.

The minimum carload weight used in column A is 24,000 pounds, and in column C it is 30,000 pounds.

Now, this is also a compariosn with the single line hauls over trunk lines as well as the short lines, as prescribed by the Georgia Commission in the order referred to in docket 15416.

[fol. 573] On page 5, the last page of this exhibit, is a statement that was prepared, and which was submitted as an exhibit at a hearing in docket 15416 before the Georgia Commission, and attached is a statement showing the per-

centage of the expense, the per diem and switching reclaim expense of 13 important short lines in Georgia, as to the total revenue received by each line. In other words, take the first railroad, the Macon, Dublin & Savannah Railroad, it handled 260 carloads of logs within five months, January through May, 1925. Their per diem on it was $638, their switching reclaim was $1,359.50. 44.3 per cent of the gross revenue went into that one item. Now, take the Georgia, Florida & Alabama Railroad, this is a railroad that had no switching reclaim. Most of their logs go off of the railroad, with the exception of a few to Mr. Simmons, at Bainbridge, so therefore they have no switching reclaim, but 33.46 per cent of the gross revenue received by this railroad was paid out for per diem. The statement speaks for itself, but bringing it down to the average revenue per car for this period for all of these lines, it was $17.05, and the average per diem reclaim and switching reclaim was $5.39 per car, leaving a net of $11.66. I should say it does not leave a net, it leaves a gross rather than a net revenue, deducting per diem and the switching reclaim. It leaves us just $11.66 to pay all the transportation expenses incident to this traffic. That is what we get out of it. Out of that [fol. 574] we haven't got anything to give away. In fact, the short lines think that the present rates on logs—and I am speaking of the short lines in Georgia at this time—are low, and we have hoped to get an increase from time to time, but up to the present time we have not been able to get an increase in these rates.

We hope that this exhibit will be of some benefit to the Commission in arriving at a just and reasonable rate to apply. As I have said before, anything that is applied in Georgia over the Atlantic Coast Line, will, we are fearful, spread to the other trunk lines, and in that way reflect itself upon the short lines in Georgia.

Examiner Brown: Exhibit No. 9 will be received in evidence.

The Witness: The first page of Exhibit 9 should be corrected and in the second line of the title, to show "intrastate" instead of "interstate."

Q. I am not sure that the record is entirely clear as to how these rates apply in columns A to G inclusive, whether

in cents per car or otherwise. The basis is not shown. You have stated that column H is cents per 100 pounds, but I am not sure that the testimony is clear as to the other columns.

A. These are in cents per car of 40,000 pounds, so far as column A is concerned; column B is 30,000 pounds minimum; column C, 40,000 pounds; column D, 40,000; columns E, F, and G and H, 30,000 pounds; excess in proportion.

Q. And those are all the rates in cents per car?

A. All rates in cents per car except the last column, which is in cents per 100 pounds.

[fol. 575] Most of these short lines are not lumber tap lines. We have only two lumber tap lines in the South (Tes. p. 159). They are not included in this exhibit. One is the Alabama Central Railroad and the other I have forgotten the name; it is not a member of our Association. The Alabama Central Railroad that I referred to is more of a coal carrying line now than a lumber line. It was originally a lumber line. Lumber does not furnish the principal traffic for these lines.

Cross-examination.

(By Mr. Cotterill:)

Referring to sheet 5 of my exhibit No. 9, the second column under the heading "revenue," that is the revenue derived by the particular railroad on all logs which it originates. If they deliver any, it is all included. That is the total revenue that these railroads receive upon logs handled by them.

In other words, what I have done is to show the total revenue, including that which may be derived from local movements, as well as that which is derived from joint haul movements. I do not undertake to show anything, except what this exhibit demonstrates, and that is 13 railroads within the State of Georgia, short line railroads. Here is the percentage of switching reclaims and per diem, and the gross revenue received by each of these railroads on logs whether they were handled one mile, or 100 miles, or on joint or local hauls, and the total is 31.6 per cent of all of [fol. 576] them, and that yields $5.39 per car, and if you deduct that from $17.05, it leaves you an average of $11.66.

Now, that is all the logs we handled, whether on joint haul or any other way.

The rates which are shown in the preceding four pages of my exhibit would yield the figures shown on my sheet 5, except as to some of the joint hauls it would probably yield less; if it was a joint haul we would receive less because there is a deduction of combination rates within the State of Georgia. There is produced certain average earnings lower in amount than the earnings produced by the rate schedules shown on the first preceding four sheets, in respect of joint traffic, to the extent of 10 per cent, but I have already said in my direct testimony that the majority of the logs were joint haul traffic over these short line railroads. On the combination rates there is a deduction, of course, but these figures on sheet 5, regardless of how we get them, are the actual amount earned by these railroads on logs. These are on all logs from all sources under the present rates.

"Q. And those present rates are not necessarily even the rates shown on your first four sheets of your exhibit?"

"A. Well, the present rates—what do you mean?"

"Q. What you have shown on sheet 5 as earnings?"

"A. Sure."

"Q. Including in part divisions of some other rates than [fol. 577] those which you have shown?"

"A. Well, Mr. Cotterill, I have tried to make it clear that there is a deduction on combination rates of 10 per cent in Georgia, so therefore, it is obliged to be these rates less 10 per cent."

"Q. Suppose there be specific point to point rates for local movements on some of these lines which are less than the rates shown on your first four sheets, that would be reflected in the earnings, would it not?"

"A. Well, there are very few of them on these short line railroads" (Tes. p. 163).

The Macon, Dublin & Savannah Railroad is 92 miles long. This line does not invariably charge the local mileage scale for any movement of logs between origin and destination on its line.

I would not say that in all probability every one of these short line railroads shown on my page 6, even as to local movements as between points on its own line, published spe-

cific point to point rates which are less than the mileage scale indicated upon the other sheets. I would not say that most of them do. I know one of them does. Well, I don't recall just now—I recall one, that is under very peculiar conditions. Nothing peculiar, only this; on this railroad the equipment is furnished by the shipper, and moves in [fol. 578] large lots, and another thing, they are under contract to give return tonnage, for every three cars of logs, one car of lumber.

As to what considerations determine the measure of particular log rates, I can only say that I was traffic manager of the Macon, Dublin & Savannah for 15 years, and general manager for three years, and during that time I didn't make a special rate on logs. This came along after my administration. It is uncommon to find an entirely different level of rates where there are train load movements than would apply on straggling movements from one origin to another under mileage scales, so far as these short lines that I am testifying about are concerned, and very frankly, Mr. Cotterill, I think the practice is a very bad practice. I think if the shipper is going to furnish his own equipment, he could probably get a locomotive and get trackage rights.

"Q. Suppose it is not done that way, suppose the shipper furnishes the equipment, operates the terminal services at both ends, and is operating a daily shuttle movement between one point and another, day in and day out, and is furnishing thousands of carloads, under those circumstances, whether it be a short line, or a trunk line, isn't it your observation that different rates are generally made than under these mileage scales which cover movements of an entirely different character?"

"A. Well, you know I know very few of those rates that are made."

[fol. 579] As to whether there is something special about every one of them, though, where they exist, I don't know what you mean by something special. I presume that the traffic manager takes into consideration the various phases of handling the traffic. I am not going to say—I think that is left up to the individual traffic manager as to the rates he may make. As to whether special rates on logs are today made and have been made under some such circumstances, I

will not go that far. I will go this far, that I know of only one railroad that has done it. That is all I know in fact. There may be some point to point rates that are less than these mileage scales. At first, you were talking about the regular movements from local railroads, and now you are talking about point to point rates, a different proposition, where there may be a joint haul. I would not say that, whether it be a single line haul or a joint line haul, the whole rate structure on logs is honeycombed with individual rates made with reference to particular operating conditions. There may be some. Now, Mr. Cotterill, you probably have a wrong idea. I have brought here the rates that in many cases are prescribed by the State Commissions, which are the maximum rates, and I presume that the Interstate Commerce Commission if they see fit to prescribe rates applicable between Florida and Georgia, will prescribe maximum rates. I brought this here hoping to be an aid to them in arriving at a just and reasonable rate, not with any view [fol. 580] of covering up anything, but simply to show the scales of rates. They know as well as I do that on joint hauls in Georgia there is a percentage deduction. There is no percentage deduction on the interstate rates. Those rates are just as they are shown. It was not my thought to aid the Commission in determining maximum rates. I presume they are going to prescribe the maximum reasonable and just rates. I hope they will not prescribe minimum rates, I will say that to you. I hope they will prescribe the maximum rates, and I am sure they will make them remunerative. I am not in favor of minimum rates being prescribed on any railroad. As to this item of per diem and the switching reclaim; per diem is the amount of money paid for the hire of a freight car per day. The switching reclaim is a claim that is allowed the delivering carrier within the switching limits say of a certain town for handling a car to and from the railroad either receiving or delivering the traffic to the industry to which the shipment is forwarded or consigned. The reclaim is not a credit. The per diem is a sum of money which a short line railroad pays to a carrier, and the reclaim is a sum of money that a line pays to the carrier for delivering cars to the industries on another line in the same city, only in the same city. It is not the absorption of a switching charge. For instance,

a car going locally off of a railroad say at Macon, Ga., consigned to the Case-Fowler Company at that point, the ship-
[fol. 581] per has to pay the switching charge out there, that is local, and he pays it to the railroad, and then in order for us to get that car to him we have to allow them so much per diem reclaim to give them time to get the car out there and back, because the switching charge is extremely low. When one railroad allows another a switching reclaim it is in order that delivery may be effectuated on some carrier other than the originating line. It simply is a sum of money deducted from the local rate of the originating carrier, and paid by the originating carrier, but it does not constitute a division of rate. I do not consider it a division at all, because the rate applies to any point within the city of Macon, or Valdosta, or Jacksonville. In the ascertainment of the figures shown under my column "Revenue" I got those figures, just from waybills. It purports to be gross revenue. That is the whole amount of the freight charges collected from the shipper. The source from which I ascertained the amount of money deducted for the switching re*l*caim was the auditor's office. I asked him what these columns indicated, for the per diem paid, for the *siw*tching reclaim that was allowed and paid, that is all. Now, he has a record of those items. The per diem settlements are made at various times, as a usual thing, once a month. Some of the switching settlements are made once a week, and some of them are settled once a month. In that sense the per diem is relieving the common carrier of the ownership and responsibility
[fol. 582] of supplying the equipment with its own capital investment, but it applies to the short lines; the short line usually has not money with which to purchase the equipment, and again, as to logs, it is my own personal experience that some of the short lines cannot afford to buy the proper equipment for the handling of logs, or the equipment that is desired by the shipper, because very frequently they desire gondola cars, and they can't afford to buy those cars for that service alone. I won't agree that this item of per diem is simply a sum of money which a given carrier elects to pay in lieu of making a capital investment of its own in operating facilities, because a given carrier does not elect to pay it any more than if you were renting a house you might

elect to pay $1. We have a choice between furnishing the car and paying per diem on it. Well, we do not consider that a relief at all from capital investment.

(Witness excused.)

Examiner Brown: Mr. Thurtell, does that conclude the testimony for the intervenors that you represent?

Mr. Thurtell: It concludes the testimony for all the railroads represented by me (Tes. p. 173).

Exam. Hillyer: Mr. Reporter, let the record show that after considering the statements of position by counsel for the Atlantic Coast Line, and for various Florida shipping interests, I am of the opinion that the Atlantic Coast Line should proceed first with its testimony. This position is taken on account of the statement by counsel for the Florida interests, Mr. Cotterill, that he is not attempting to introduce proof as to the measure of the Florida-Georgia rate at this time. He has been called upon to produce such proof, if he has any, and he has been told that in case he wishes to introduce any rebuttal testimony, he will be limited very strictly to rebuttal of that which the Atlantic [fol. 583] Coast Line introduces.

Is that statement understood by Mr. Davis and Mr. Cotterill?

Mr. Cotterill: It is certainly understood by us, your Honor.

Mr. Davis: Do I understand Mr. Cotterill to say that he is not a plaintiff in this case in any regard?

Exam. Hillyer: I understood him to say that he is an intervener in behalf of the defendant, and therefore, should follow the defendant in the presentation of his testimony. Is that correct, Mr. Cotterill?

Mr. Cotterill: I have indicated that we are an intervening defendant in the case throughout, assuming that the railroad defendant is a defendant in fact and is undertaking to defend the case.

On this question of proof as to the unreasonableness of the interstate charge involved, we have no interest in it at all, except as it may bear upon other issues in the case in which we are interested. I promise that we will not tender now or later any evidence in chief directed to the alleged violation of section 1. If there should arise in the case,

contrary to our hopes and expectations, any exigency which might suggest to us the importance of submitting any evidence on that subject, it will be done in strict conformity with the requirement that it be limited to rebuttal evidence.

(Mr. Cotterill then presented a motion to dismiss the proceedings on behalf of intervening lumber companiess, the [fol. 584] Wilson Cypress Company, Brooks Scanlon Corporation, Putnam Lumber Company, Cummer Cypress Company, Jacksonville Traffic Bureau, Manufacturers & Club of Georgia, the Savannah Traffic Bureau, the Georgia-Florida Saw Mill Association, Southern Cypress Manufacturers' Association, Southern Pine Association. The Railroad Commission of Florida concurred in the motion, but not as intervenor by reason of its statutory status in the case.)

"Mr. Cotterill: The grounds of the motion are two-fold and are set forth therein: First, that neither the complainant nor the supporting intervenors have submitted evidence sufficient to constitute a cause of action within the powers of the Commission to remedy. Second, the allegation that the complaint had not been sustained by the complainant nor by the supporting intervenors" (etc.).

"Examiner Hillyer: Counsel are aware, of course, that the power to dismiss is lodged solely in the Commission, and the motion will have to be referred to the Commission itself.

(Discussion of the motion followed on pages 177, 178, and off the record.)

J. W. Perrin was thereupon called as a witness and, being first duly sworn, testified as follows:

Direct examination.

(By Mr. Carl Davis:)

J. W. Perrin. I live at Wilmington, N. C., and I am as- [fol. 585] sistant freight traffic manager of the Atlantic Coast Line Railroad Company.

I have been connected with the freight traffic department of the Atlantic Coast Line Railroad for something more than 30 years.

The complaint in this case is directed against log rates applicable between points on the Atlantic Coast Line Railroad in Florida and from points on the Atlantic Coast Line Railroad in Florida to points on the Atlantic Coast Line in Georgia. I file a map covering this territory, as my exhibit 10. It is a skeleton map of the various railroads operating in Florida and South Georgia. For convenience I have shown the lines of the Atlantic Coast Line Railroad in red (Tes. p. 179).

Rates shown in my exhibits are those in effect at present and include general percentage increases and reductions. In some cases rates in the tariffs apply per car of specified weight, but for the purpose of convenient comparison all such rates are converted to basis of per 100 pounds. In some of these exhibits rates are shown for exact number of miles, and this is because of differences in the present arrangements of mileage blocks in connection with existing rates. We believe that as to log rates there should be uniformity in the arrangement of mileage blocks so that rates shall be provided to apply for five miles and under, for 10 miles and over five miles, for 15 miles and over 10 miles, and for each five miles of distance up to 100 miles, beyond which [fol. 586] rates should be provided for each additional 10-mile block. It may be that, as to logs, and for the longer distances, the rates for two blocks and sometimes three blocks will be the same. In the complaint in this case it is stated that its object is to secure reasonable rates on logs from all points on the Atlantic Coast Line Railroad in Florida to all points on the Atlantic Coast Line Railroad in Georgia, and to have removed any unjust discrimination growing out of differences in the Atlantic Coast Line Railroad Florida intrastate log rates and the log rates of the Atlantic Coast Line Railroad between points in Florida and points in Georgia. I file a statement showing the scales of general application on logs between points on the Atlantic Coast Line Railroad in Florida and between points on Atlantic Coast Line in Florida and Georgia, as exhibit No. 11. The statement covers distances up to 540 miles. In the first column under "Tariff description A" appear the rates in our general interstate log tariff applicable interstate south of Charleston, S. C., and north of Jacksonville, Gainesville, Burnett Lake and High Springs, Fla. This

column is designated as "North Florida interstate" as distinguished from the rates in "Column B," which are designated "South Florida interstate."

The column B rates are those applicable between Atlantic Coast Line Railroad points south of Jacksonville, Gainesville, Burnett Lake and High Springs, Fla., and points in [fol. 587] Alabama, Georgia and in South Carolina south of Charleston. In column C are shown rates applicable intrastate in Florida on logs and blocks six feet and under in length, while in column D are shown the Florida intrastate rates applicable on ordinary saw mill logs. The rates in exhibit 11, under column D, are intrastate log rates on Atlantic Coast Line Railroad in Florida, applicable on logs over six feet in length, except cedar logs, and this is the intrastate scale directly under attack in this complaint. It will be noted that the rate under this scale for 170 miles is 3.7 cents per 100 pounds, while for 180 miles the rate is 8.33 cents per 100 pounds, with proportionately higher rates for greater distances; these rates up to 170 miles are what is frequently called the Cummer scale; while for distances in excess of 170 miles the rates are those prescribed by the Florida Railroad Commission for general application in that State.

I will give a history of this Cummer scale applicable up to 170 miles and the reasons for its establishment. On July 28, 1904, the Atlantic Coast Line Railroad Company acquired the property of the Jacksonville & Southwestern Railroad Company, extending from Jacksonville, Fla., and vicinity in a southwesterly direction to Newberry, Fla., shown on the map, exhibit No. 10, as running through Lake Butler, Hainesworth and Burnetts Lake. There then existed between the Jacksonville & Southwestern Railroad Company and the Cummer Lumber Company, the latter operating lumber mills at Milldale, near Jacksonville, con- [fol. 588] tracts under which the Jacksonville & Southwestern Railroad Company was obligated to handle logs from the lines of its road to the mill of the Cummer Lumber Company in train loads of not less than 30 cars at rates per car of 50,000 pounds, excess in proportion as follows: 40 miles and under, $6; 60 miles and over 40 miles, $7; 90 miles and over 60 miles, $8. Each additional 10 miles over 90 miles, $1.00 per car additional, with maximum of $10 per car from

the Suanee River. This contract was effective over a period of 15 years, making it expire on June 29, 1918. Under the terms of its purchase of the Jacksonville & Southwestern Railroad, and as a condition thereto, the Atlantic Coast Line Railroad had to assume the then existing railroad obligations under this contract, with the Cummer Lumber Company.

Thereupon, a copy of the contract setting up the so-called Cummer Scale was received in evidence as Exhibit No. 12.

Prior to the contract, between the Jacksonville & Southwestern Railroad and the Cummer Lumber Company, there was common ownership of the railroad and the lumber company, and as a matter of fact the railroad was originally built virtually as a plant facility of the Cummer Lumber Company. Coincident with the sale of the railroad by the lumber company, the latter secured to itself by the contract this low level of rates to be continued in effect over a period of 15 years. It is only natural and usual for the lumber company to have adjusted the charges of the railroad on its logs on a low basis compared with the rates generally applicable on log traffic (Tes. pp. 183-185).

[fol. 589] In 1913, the Carpenter-O'Brien Company, succeeded by Brooks Scanlon Corporation, entered into negotiations with the Atlantic Coast Line Railroad Company, for movement in train-load lots of logs from Lafayette and Taylor Counties in Florida to be shipped to the Cedar Creek Plant at Eastport, Fla., near Jacksonville, from stations on the Atlantic Coast Line Railroad's Perry branch. The distances from these several shipping points to Eastport are as follows: Clara, 142 miles; Benotis, 147 miles; Salem, 150 miles; Carbur, 152 miles; Stanco, 157 miles; Athena, 158 miles; Pinland, 162 miles; Perry, 169 miles.

A contract with the Carpenter-O'Brien Company was entered into on January 26, 1914, copy of such contract being filed as exhibit No. 13. Under the terms of this contract, solid daily log trains were operated, subject to minimum of 30 cars per train. The train is operated over that part of the Atlantic Coast Line Railroad formerly constituting the Jacksonville & Southwestern Railroad, that part of the line west of Newberry to Perry via Wilcox having been constructed after the purchase of the J. & S. W. As to the rate applied under this contract, it was based upon

the then existing Cummer scale. To the rate of $10 under the Cummer scale for 110 miles were added $1.00 to make the rate for the 130 miles, and another dollar to make the rate for 150 miles.

Atlantic Coast Line Railroad freight tariff No. 3282, effective July 15, 1914, contained the Cummer scale so ex-
[fol. 590] tended to 150 miles, by which the rate for 150 miles and over 130 miles was $12 per car, 50,000 pounds, excess in proportion. These rates were issued to apply per car per train, minimum 28 carloads, excess over average of 50,000 pounds per car to be charged for proportionately, the tariff having been made applicable between points on the Atlantic Coast Line in Florida.

As the tariff applied on train loads, which were and are handled only under contract, it was made applicable only during the periods provided in the contract for train load movements. This freight tariff 3282 was filed with the Florida Railroad Commission, and on July 29, 1914, was rejected by the Florida Railroad Commission because of the train load feature, whereupon, effective October 3, 1914, in freight tariff No. 3339, the same scale of rates for general application on logs per car 50,000 pounds, excess in proportion, was made effective, but provided that when two or more cars were shipped from one station in one day by one shipper, for delivery to one consignee at one destination, the rates would apply for an average carload weight of 50,000 pounds per car, excess of the average weight of 50,000 pounds per car to be charged pro rata.

On October 9, 1914, the Florida Commission, through Mr. J. H. Tench, rate expert, rejected this tariff, where-
[fol. 591] upon, in freight tariff No. 3373, effective October 30, 1914, the same scale was made applicable for general application between points on the Atlantic Coast Line Railroad in Florida on Logs, carload, per car 50,000 pounds, excess in proportion.

On July 5, 1916, by freight tariff No. 4135, the scale was extended so as to apply the rate of $12 up to 160 miles. This was in accordance with the terms of the Carpenter-O'Brien contract, which had fixed the rate to apply from the group of stations Clara to Perry, the distances to Eastport ranging from 142 to 169 miles.

In September, 1918, there arose the question of rate to be applied on logs from Okhumpka, Fla., to Milldale, 166 miles, and Eastport, 170 miles. This movement consisted of timber of a special character, to be used in the construction of ships under progress by the government during the war period, and the shipper stated the purpose of having the logs sawed into lumber either by the Brooks-Scanlon Corporation at Eastport, or the Cummer Lumber Company at Milldale, the lumber to be then delivered to the government ship yards near Jacksonville.

I was referring to the rate fixed for 170 miles, and over 166 miles to cover a movement of logs from Okahumpka in connection with shipments in—moving in connection with the construction of ships in progress by the government.

The United States Railroad Administration was then in operation and the Director of the Division of Traffic in his [fol. 592] rate authority No. 2178, ordered the establishment of rate of $16.50 per car 50,000 pounds, for distances 170 miles and over 160 miles; at that date the previous rate of $12 for 160 miles and over 130 miles had, under General Order 28, of the U. S. Railroad Administration, been increased to $15.

Now, Mr. Examiner, right at this point I want to file as exhibit No. 14, the statement to which you referred yesterday, showing the chronological changes in this intrastate Florida scale as affected by the general percentage increases.

While the scale rate of $18.50 is applied between all other points in Florida for distances 170 miles and over 160 miles, the rate from Pinland and Perry to Eastport, 162 miles and 169 miles, respectively, is $17, as contemplated in the Carpenter-O'Brien contract. So that rates established on train load basis became applicable on single car lots between points on the Atlantic Coast Line in Florida. It was customary in 1914 to handle logs in train load lots at rates made for that character of service. Some of the principal carriers in the southeast, including the Atlantic Coast Line, had various arrangements of that nature, and train load rates were customary in the northwest where the handling of logs was in great volume. As to our own arrangements except in the state of Florida, the operation of log train rates continued until December, 1917.

I file as exhibit No. 15, copy of letter dated October 9, 1914, from Mr. J. H. Tench, rate expert, Railroad Commis- [fol. 593] sion of Florida, addressed to Mr. James Menzies, freight traffic manager, Atlantic Coast Line. This letter is extremely critical of these rates and condemns the low level thereof as being unreasonable in and of themselves, and in fact, confiscatory, and as resulting in unjustifiable discrimination, as between Florida shippers, as regards train load and carload movements, and inasmuch as the scale was so issued, the Commission thought, as to produce differences between intrastate shippers in Florida. It was because of this letter that our freight tariff No. 3373 effective October 30, 1914, and subsequent tariffs were issued so as to make the rates apply on a single car basis for uniform application in Florida within the restricted distances.

The application of the $17 rate from Pinland and Perry to Eastport results from the Carpenter-O'Brien contract, and shows the limit to which we have gone in complying with that contract.

Thus far our management has not been confronted with the alternative of applying the $17 rate uniformly in Florida for distances 170 miles and over 160 miles, or of discontinuing its application to Eastport only.

I also file as my exhibit No. 16, copy of letter from Chairman Burr, of the Florida Railroad Commission, addressed to Mr. E. C. McLeon, of Kendrick, Fla., under date of August 18, 1915, and an excerpt from the 20th annual report of the Florida Railroad Commission for the year ending February 28, 1917, in both of which comment is made on the [fol. 594] low measure of the log rates operated by the Atlantic Coast Line Railroad in Florida.

(By Mr. Davis:)

"Q. Realizing the low level of the rates, particularly if applied on single car shipments of logs, what reasons governed the Atlantic Coast Line Railroad in its decision to make this scale of rates generally applicable in Florida?"

(Objection to this question was presented by Mr. Cotterill, on the ground that the witness should first be qualified as to his participation in the making of the rates and his personal knowledge of the facts and circumstances. There-

upon the following testimony was offered as to the qualifications of the witness to answer the question.)

I am familiar with the reasons that actuated the management of the Atlantic Coast Line in its decision to make this scale of rates generally applicable in Florida, as a matter of personal knowledge, and I participated in the making of the rates themselves. Of course this was done in 1914, when I was a minor official in the office, but of course the whole matter was handled with the department through the Vice President, preparing different statements and comparisons, and the preparation of any other data that the vice president needed in his negotiations, and I furnished certain information that he asked for. I was not present at the conference between the vice presidents and the shippers. I was thoroughly familiar with the plan as contemplated and the reasons on which the conclusion was based. I was in daily contact with the negotiations insofar as it took place in our office at Wilmington. I was engaged in it, in consultation and in the preparation of statistics; consultation with the officers of the traffic department, and talked it over with them in conferences, the purpose of those conferences being to decide what should be done. Mr. Brand had the power to decide. I did not (Tes. p. 193). I was not in position to [fol. 595] say or know all that was in Mr. Brand's mind. I think he knew what was in all of our minds. Of course I did not know what was in his mind. My contact with that situation was just the same as it is with any other proposition that comes up to establish a rate. The thing is subject to conference and discussion pro and con. I offer my views, the other officials offer their views, and an agreement is reached as to what would be the proper step to take. It is identical with what was done in this situation. I do know the considerations that prompted Mr. Brand to make that decision; part of them I originated myself. Mr. Brand merely based his conclusion upon the information furnished him by myself and other officers of the freight traffic department, but I cannot be a fortune teller. I do know that Mr. Brand's conclusions were based on certain fundamental facts which were furnished him partly by myself and partly by other officials of the road, who were in daily touch with the situation (Tes. p. 195). It was part of my duty *yo*

assist Mr. Brand in a determination of the course to be pursued. I participated in the conferences with Mr. Brand and other officers of this company in which there was free discussion pro and con as to what should be done and I know enough to be able to state of my own knowledge the reasons that actuated these conferences, as a result of which Mr. Brand, being the officer in charge, made the decision (Tes. p. 196). This happened in 1914 or 1913 at a time when it was part of my duty to aid Mr. Brand in reaching the conclusion that was reached, and I performed that duty.

I have no reason to believe that Mr. Brand withheld from me anything that led him to take the action that he did; on the contrary the conferences were of such length and so numerous that the matter was sifted from every viewpoint over a period of time, and this conclusion was reached. And I was present at those conferences.

(Objection overruled.)

[fol. 596] The Atlantic Coast Line Railroad had in good faith executed a contract with the Carpenter-O'Brien Company, under which it agreed, throughout the length of time necessary, to move the logs covered by the contract at a specific rate subject only to law and to change or cancellation required by law, or by judgment of any court or commission of competent jurisdiction. Our management elected to adhere strictly to the terms of the contract, notwithstanding the fact that, although the rates had not been ordered changed or cancelled by the Railroad Commission of Florida, the judgment of that Commission had characterized them as exceedingly low and discriminatory.

Our management elected to comply with the terms of the contract in preservation of our good faith, even to the extent of applying these abnormally low rates on any number of cars of logs between any two stations in the State of Florida. The contract was, of course, only with the Carpenter-O'Brien Company, and their successors, and there was in that contract no obligation to other shippers. I have previously indicated that under the requirements of the [fol. 597] Railroad Commission of Florida, the Atlantic Coast Line was faced with two alternatives; that is to say, the cancellation of the contract rates, or the application of

the contract rates to other Florida situations regardless of the volume of the traffic.

The Atlantic Coast Line chose the latter alternative, and the effect was the establishment for general application in Florida, of rates that had been made under peculiar circumstances, and to be applied only on logs in train load lots. The rates obtainable under the contract with the Cummer Lumber Company would have expired in 1918, but for the fact that in 1914 we made the contract with Carpenter-O'Brien Company, the rates under which we were required to extend to other shippers.

Therefore, while we had the contractual obligation to apply these rates for Carpenter-O'Brien Company, no such contractual obligation applied to other shippers and they would not be receiving the benefit of these low rates were it not for our relations to the Carpenter-O'Brien Company. Frankly, we feel that our relations to the Brooks-Scanlon Corporation are entirely different from our relations to the other log shippers, who are merely beneficiaries of the concessions that we had to make in order to fulfill our contractual obligations to the Brooks-Scanlon Corporation.

The cost of handling a given amount of logs in train loads [fol. 598] is less than in single car lots or in lots of a small number of cars in regular trains, unquestionably. If the logs are moved in less than train loads, the work must be done by regular freight trains along with all other classes of traffic and subject to expense of classification of the contents of the trains, switching into and out of trains at points of origin, points enroute and at destination, as well as switching to the tracks serving consignee's plant or storage facilities; separate billing is required for each car and collection of charges from each of the consignees to whom the several cars may be delivered. If the logs be moved in train loads, the loaded cars are assembled by the shipper with his own power and delivered to the railroad as a train load ready to be moved without switching into trains at shipping points, at intermediate points or at destination; all cars are billed together and all freight charges collected in one transaction. The entire train is delivered to the consignee at destination. Those economies were considered when the management of the Atlantic Coast Line dealt with the question of rates to be established for

the train load movement of logs from the Perry branch. Our management took into consideration the fact that the logs would be moved in train loads, and with such regularity that would make the service less expensive than would have been the case if the shipments had been expected to move in single car lots and with no degree of regularity. These [fol. 599] rates as restricted to train load movements were abnormally low and could have been justified for application on train loads only by the circumstances and conditions under which they were made. As applied in all situations, regardless of quantity, they are, in my opinion, far below the level of reasonable log rates; they, as a whole, are no more than one-half of the rates generally applicable on logs in all of this southeastern territory, and logs are handled in the southeast on a particularly low level of freight rates.

"Q. The complaint in this case, while claiming unreasonableness in the interstate rates on logs from Florida points to Georgia points, seems to be directed largely against discrimination in favor of intrastate shippers of logs in Florida to the prejudice of the interstate shippers. How would you view any suggestion that the Cummer scale of log rates be made the measure of interstate rates for the Atlantic Coast Line?

"A. I would view such a suggestion as impossible, and the application of this level of rates as destructive and without justification. The Atlantic Coast Line serves the states of Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama, and operates through those parts of practically all of these states in which the tonnage of logs is heaviest, and if anything approaching the Cummer scale should be made the measure of reasonableness of our log rates generally, the result from a revenue standpoint, could not be justified.

"Q. Turning now to the interstate rates and referring again to your exhibit No. 11, you show in columns A and B, respectively, the interstate rates from and to North Florida, and from and to South Florida. The north Florida interstate scale is the scale referred to specifically in the com- [fol. 600] plaint. Please state as briefly as you can the history of these interstate scales.

"A. For many years there has been a system of local tariffs on the Atlantic Coast Line south of Charleston, that, as to Florida, differentiated between points north of Jacksonville, High Springs, River Junction, and so forth, and points in Florida, south thereof. As indicated on this exhibit, the rates in column A are applicable interstate to and from this northern group of Florida points as distinguished from the rates in column B applicable to and from the southern group of Florida points."

[fol. 601] The rates in column A, which are the interstate rates under direct attack on this complaint, became effective August 15, 1925.

Prior to that time there were six interstate mileage scales on logs between points on Atlantic Coast Line south of Charleston. The purpose of the present scale of rates in Column A was to provide a uniform basis for interstate application, superseding the various scales previously in effect.

At this point I would like to file as exhibit No. 17, statement showing these Atlantic Coast Line mileage scales on logs in effect prior to August 15, 1925, and applying in the several interstate situations south of Charleston, S. C. This exhibit indicates by caption the general territorial application of each scale, and there is also shown by foot notes the details of the territory where they applied.

The statement also shows an average of the previously existing scales and also the present interstate scale that [fol. 602] superseded all six of these scales. With the exception of the South Carolina interstate scale, column E, for distances in excess of 120 miles the present interstate scale represents substantial and material reductions from the rates previously in effect.

The present interstate rates are 10 per cent less than the net rates submitted by Georgia carriers to the Public Service Commission of Georgia in response to that Commission's order of July 14, 1921, which announced the purpose of generally revising rates within the State of Georgia. The carriers in Georgia submitted to the Georgia Commission:

(a) A scale of rates on forest products to be applied without transit, and

(b) A scale of net rates to be applied on logs and other products under transit arrangements.

As I have just stated, our interstate scale is 10 per cent less than the net rates so submitted to the Georgia Commission, which was submitted prior to the general 10 per cent reduction case.

In addition to the reductions in the interstate rates previously in effect, there has been established in this new scale a uniform system of interstate rates that must have been beneficial to the shipping public. In addition to general reductions, the new scale has removed the source of various complaints that had been made against inequalities [fol. 603] existing in interstate rates in the same general territory. When the carriers, in 1921, submitted to the Public Service Commission of Georgia the proposed scale of rates on logs, the purpose of the carriers, as then stated, was to adopt this scale for uniform interstate application throughout their several systems and to secure the application of the same scale on intrastate traffic in states other than Georgia through the State Commissions of those other states. Not only did there exist a great variety of interstate scales and intrastate scales applicable on different railroads throughout Southeastern territory, but in the case of some of the larger systems a lack of uniformity existed in the scales applicable over individual lines. As previously stated, the Atlantic Coast Line had six such varying interstate scales in this general territory, and, of course, the variety was still further increased by the existence of differing intrastate scales in all of the states that we serve. It will readily be seen, therefore, that the plan under the proposal of the Public Service Commission of Georgia, if it had entirely succeeded, would at least have established uniformity, which, as to logs, is just as important a consideration as to any other commodity. In fact, the absence of discrimination is generally more important to the shipper than the level of the rates.

As to the submittal to the Public Service Commission of Georgia of the scale of rates that was afterward made [fol. 604] effective for interstate movement on Atlantic Coast Line Railroad, that Commission did not approve the rates submitted by the carriers, but on April 15, 1925, the Georgia Commission, after exhaustive hearings and sub-

mission of voluminous testimony, issued its order to become effective June 1, 1925, prescribing certain rates on logs that will be shown by me in a subsequent exhibit. The scale so prescribed, while lower than the scale submitted by the carriers, was somewhat higher than the existing greatly depressed rates in Georgia. On May 29, 1925, the Georgia Commission suspended the rates prescribed on April 15, 1925, and set the matter down for further hearing, which was held on July 13, 1925. The testimony at the rehearing on July 13, 1925, was directed to the feature of discrimination, the evidence being referred to in letter of July 16, 1925, from the rate expert of the Georgia Commission, Mr. Price, to the officials of the different roads, as follows:

"The evidence submitted at the rehearing reveals, what is in the opinion of the Commission, an intolerable situation, as regards the rates in Florida, as compared with the interstate rates between Georgia and Florida, and the effect on this situation of the suspended rates authorized in the Commission's order."

The Atlantic Coast Line Railroad's present interstate log scale was made effective August 15, 1925. This scale was already in effect for interstate application on Atlantic [fol. 605] Coast Line Railroad in Carolina territory, and, as was stated to the Public Service Commission of Georgia, it was the intention to make the same scale uniformly applicable throughout our system. During the summer of 1925, a number of inquiries for log rates were received from shippers in Georgia, and we were anxious to dispose of those inquiries in a manner that would produce uniformity to the greatest extent possible. After the new rates in Georgia had been prescribed and suspended by the Georgia Commission, we proceeded to make effective for interstate application our present interstate scale.

I file a statement as Exhibit No. 18, contrasting the revenue per car on logs under our interstate mileage scale and under our Florida intrastate mileage scale, with the revenue per car on brick, gravel, sand, lime and cement, moving interstate between North Florida and Georgia. First are shown the rates on logs and the other materials, and next the comparison of revenues per car. The weights per car are the actual averages on the Atlantic

Coast Line for year 1925, as reported to the Interstate Commerce Commission.

Brick and road-building materials constitute an unusually heavy character of traffic, and I know of no traffic on the Atlantic Coast Line, other than logs, that is handled on a lower basis of rates, so that this exhibit shows comparison of our earnings on logs with the lowest grade of traffic that [fol. 606] we are called upon to handle.

The Exhibit is intended to show first that the interstate scale produces revenues on logs far below revenues on other extremely low grade traffic, and the comparison also shows the tremendous difference growing out of the application of the low Florida intrastate log rates up to 170 miles.

Exhibit No. 18, that I have just discussed, compares revenue results on logs with the voluntarily established interstate rates on other commodities, between points in Florida and points in Georgia.

I would like to file a similar exhibit as No. 19, contrasting the earnings on logs with earnings in Georgia on intrastate shipments of these low grade materials.

This exhibit likewise shows comparison between the earnings under the interstate log scale and the Florida intrastate log scale. There is no traffic on our line in Georgia that has lower transportation characteristics than brick, gravel and sand, but nevertheless the statement shows that even under the interstate scale the earnings on logs are, as a whole, materially lower than on any of these low grade articles, and that the earnings under the Florida intrastate log scale are so low as to appear almost unbelievable.

I file as exhibit No. 20, a similar statement comparing revenue per car under the interstate and Florida intrastate log scales with the rates within the State of Florida on these low grade commodities. It is impossible to conclude from examination of this statement that the interstate log [fol. 607] rates that produce revenue so far below the revenues on other low grade articles are too high, or that the Florida intrastate log rates are not high enough.

I file an exhibit as No. 21 bearing upon percentage relation between lumber rates and log rates. The only mileage scales of rates on southern lumber prescribed by the Inter-

state Commerce Commission that I have been able to find are those prescribed in 60 I. C. C. 5, applicable to Meridian. However, the southern carriers adopted an interstate mileage scale as a guide for making interstate rates on lumber, particularly between Southeastern and Carolina territories, which conforms rather closely with, although slightly lower than, the rates to Meridian as prescribed by the Commission. In this exhibit I have shown the lumber rates to Meridian, the basic scale used by the carriers on lumber, the interstate log rates of the Atlantic Coast Line and the percentage relationship that the Atlantic Coast Line interstate low rates bear to the lumber rates to Meridian and to the carriers' basic scale. This has been worked out for representative distances, and perhaps it would be fair to say that the exhibit shows that the Atlantic Coast Line interstate log rates are about 55 per cent of the lumber rates to Meridian, and about 60 per cent of the lumber rates under the carriers' basic scale.

The log rates heretofore prescribed by the State commissions in Florida and Georgia have been 60 per cent of the [fol. 608] rates prescribed on lumber.

I know of no instances where a lower percentage relationship has been adopted. In South Carolina the Railroad Commission prescribes on logs 80 per cent of the lumber rates.

I file a statement as exhibit No. 22 indicating the low character of the log rates on the Atlantic Coast Line Railroad. I selected 15 commodities having the lowest transportation characteristics, this list of commodities being shown in the exhibit. Our auditing department undertook to show for the month of May, 1926, the number of tons of each such commodity handled by the Atlantic Coast Line Railroad, the revenue derived therefrom and the average haul, and, based upon these figures, they arrived at the percentage of all tonnage, the percentage of all freight revenue, the revenue per ton and the revenue per ton mile.

The purpose of this statement is to indicate the low earnings on logs as compared with any of the other commodities, bearing in mind that all of these commodities constitute the lowest grade of traffic that we handle. The comparison that I desire to show is concentrated in the last column, which shows, for instance, as to cottonseed that the percentage of

all freight revenue is 61½ per cent of the percentage of all tonnage; as to gravel and sand, the statement shows that the percentage of all freight revenue is 34½ per cent of the percentage of all tonnage.

[fol. 609] The statement shows that as to fertilizer, the percentage of all freight revenue is 83.8 per cent of the percentage of all tonnage; as to logs it shows that the percentage of all freight revenue is 28.4 per cent of the percentage of all tonnage. This is merely a way of indicating the comparative levels of earnings on these commodities.

It will be noted that none of these commodities moved distances substantially less than did logs, except cottonseed and cordwood, and in most instances the average haul on logs was less.

In considering the value of this comparison the average haul is important.

It may fairly be stated that, without making any allowances for differences in average haul, the comparison between logs on the one hand and fertilizer, crossties, cordwood, gravel and sand, cottonseed hulls and cottonseed, on the other hand, is unquestionably convincing, while on the other commodities the percentage figures are so much greater than on logs that even the greater average haul in the case of the other commodities cannot be used to the discredit of the statement; for instance, while the average haul on phosphate rock is 154 miles, as against an average haul on logs of 109 miles, the percentage figures are 46.9 and 28.4 respectively, making a difference in percentage figures far out of proportion to the difference in average haul. This statement is merely one method of substan-

[fol. 610] tiating our statement that under the present level of rates, logs are the lowest revenue producers of all of our traffic.

It is the contention of the Atlantic Coast Line Railroad that its interstate mileage scale on logs represents a level of rates none too high, and that if all of our log traffic could be handled at the rates contained in this interstate mileage scale the revenues obtained from the log traffic would be in much fairer proportion to the revenues obtained from other classes of traffic. We are convinced that our log rates, as a whole, have become inordinately low and that the revenues derived from the transportation of logs as related to the

service performed are so low as to suggest a doubt about fairness to shippers of other classes of traffic. In making this statement I have in mind not only the intrastate log rates in Florida, but the log rates applicable generally on the Atlantic Coast Line.

The purpose of the testimony that I have given up to this time is to show that, intrinsically, our interstate mileage scale on logs is reasonably low, and that it would be out of the question to substitute therefor any scale, even approximating our Florida intrastate scale, for distances up to 170 miles.

I have not undertaken to show any comparison between our log rates here under consideration and the rates of other lines, which, in numerous instances, are materially higher, because I believe that there is a situation immediately around us that will necessitate the fixing of a uniform [fol. 611] scale of log rates on the Atlantic Coast Line Railroad less than might reasonably be expected and made independent of log rates elsewhere that may have been higher under circumstances and conditions not substantially different from those existing in our territory.

In order to make my meaning clear, I would like to refer briefly to some of the decisions in the general territory that we serve. In the case of Pierpont Manufacturing Company versus Southern Railway, 50 I. C. C. 81, decided May 2, 1918, there were involved rates on logs to Savannah, Ga., from Southern Railway stations in South Carolina south of Columbia, the distance ranging from 20 miles to about 140 miles. In the report in that case the Commission stated that during the period December, 1909, to June, 1916, the Southern Railway had in effect a scale of rates on logs beginning with rate of $7.00 per car of 40,000 pounds for 10 miles and under, and for each additional 10 miles, $1 additional, but that in June, 1916, this scale was cancelled and lumber rates thereafter applied.

The Commission cited numerous instances of increases growing out of the change, such as from $12 to $18 per car, from $14 to $25 per car, from $15 to $25.60 per car, and so forth.

The Commission also found from the testimony that the rates under complaint, same as on lumber, in one instance violated the Fourth Section of the act, without authority, and declared this violation unlawful.

[fol. 612] In that case the Commission approved a scale beginning with $8 for 10 miles, ending with an additional $1 for each additional 10 miles. The Southern Railway at the hearing offered a scale beginning with $8 with this additional $1 for each additional 10 miles. That is the scale that the Commission approved. I suppose I am debarred from further reference to it.

Reference to that case is merely the first step to show that when the Commission decided that case they laid the foundation for the log ratesin this general territory.

The case of the Southern Veneer Association, 62 I. C. C. 669, decided July 15, 1921, covered rates on gum and poplar logs from South Carolina points on the Atlantic Coast Line and Seaboard Air Line to North Carolina destinations generally reached by the Southern Railway, although the Seaboard Air Line Railway reached one of the points, Rutherfordton, N. C.

The Commission in that case adopted the scale of the Southern Railway that was then in effect from South Carolina to North Carolina points, merely changing the scale as was necessary to correct improprieties in the progression of the scale. Now, the Southern Railway scale so adopted, was originally the Pierpont scale. That was treated there as having been substantially approved for application in this territory. On April 27, 1925, the Southern Cotton Oil Company of Savannah, Ga., filed complaint against the Atlantic Coast Line Railroad, docket No. 17043, covering the application of lumber rates on logs from Atlan- [fol. 613] tic Coast Line Railroad stations in South Carolina south of Charleston to Savannah, Ga. Subsequent to the filing of the complaint, the present interstate log scale became effective. The Commission's decision in this case has not been rendered, but the Examiner has recommended a scale of rates that is identical with the Southern Railway's scale. I should like to add that in view of our examination of the decisions of the Interstate Commerce commission affecting our log rates in this same general territory, we conclude that it is useless to ask the interstate Commerce Commission at this time in this case to approve a scale of rates substantially higher than they have fixed in the previous cases involving the interstate rates in the same general territory.

Now, on that account, we want to express our willingness to adopt for interstate application throughout the length of our line, not including south Florida, the same rates as are applicable in the State of Alabama.

I might say that we have already prepared to establish this scale for uniform interstate application between Alabama and points in Georgia, between points in Georgia and points in South Carolina, between points in South Carolina and points in North Carolina, and between points in North Carolina, and points in Virginia, and—as well as between points in South Carolina. The scale is already in effect in Alabama, and it remains for the Commission in Georgia and North Carolina to pass upon what the scales [fol. 614] shall be within those two states.

I file an exhibit as No. 23 showing the present rates and descriptions applicable interstate on logs between points in Florida and points in Georgia, together with the rates as they would be under our proposal. The exhibit shows under "Description" as to north Florida, present inter state log scale of the Atlantic Coast Line; under Description B, certain rates on short logs, six feet and under in length applicable for distances 150 miles and under from Florida points to Bainbridge, Thomasville and Metcalf, Ga., and under Description C, the proposed scale of rates and the descriptions to be used. As to south Florida, the statement shows under Description D the existing rates on logs between south Florida points and points in Georgia, and under Description C rates proposed to be applied between south Florida points and points in Georgia.

"Q. You show in this Exhibit under Description B, present rates applicable from Florida points to Bainbridge, Thomasville and Metcalf, Ga., for distances up to 150 miles, and the statement indicates that under your proposal the rates under Description C would govern in future. Please explain the record under which these rates under Description B were established.

"A. In February, 1916 this line of rates was originally established to Thomasville, Ga., on request of a shipper who asked for rates on short length logs to Thomasville from points in Alabama and Florida, within 150 miles, and he also asked that the rates applicable in Florida on short length logs be used. The shipper explained his purpose

to establish a plant for the manufacture of these logs at either Tallahassee, Fla., or Thomasville, Ga. He called [fol. 615] attention to the fact that the Central of Georgia Railway applied for interstate application on short logs the Georgia class P rates per car of 40,000 pounds.

As a result of these negotiations, the rates to Thomasville were established from Alabama and Florida points on the same basis as applied in Georgia, observing the Florida state rates as minima.

In April, 1916, a request was received for rates from Miccosukee, Fla., to Metcalf, Ga., which request was considered and satisfied by the establishment of the same scale of rates as to Thomasville.

That request was for short lengths as well as long lengths.

In February, 1918, a request was received for the establishment of rates from Florida points to Bainbridge, Ga. and in response thereto the same scale was made to apply to Bainbridge as to Thomasville and Metcalf. I may say that while the tariff description is more or less involved and, in fact, does not meet the requirements of the Tariff Bureau of the Interstate Commerce Commission, the requests for rates referred altogether to the short length logs, and it should also be stated that when the Atlantic Coast Line Railroad's general interstate mileage scale as now published in Agent Glenn's I. C. C. A-415, was issued in August, 1925, the expectation was that it would supersede these rates to Bainbridge, Thomasville and Metcalf.

[fol. 616] "It was afterwards found advisable to file with the Southern Freight Association a proposal to cover this change, but the Atlantic Coast Line withheld action upon request of consignees at Bainbridge and Thomasville, who stated that as steps were already under way for the establishment of a uniform level of log rates in that territory, they desired that these specific rates be allowed to stand pending the outcome of that general movement in the direction of uniformity."

In my exhibit No. 23, under description C, we propose for application between south Florida points and points in Georgia a scale of rates that is materially lower than existing rates. The basis for this scale is as follows: As has been shown, our general interstate mileage scale has never been applied to and from south Florida points, meaning

points south of Jacksonville, Burnett's Lake, and Gainesville and High Springs. Having proposed for application between points in north Florida and points in Georgia the same scale as in effect in Alabama, we would be willing to adopt for application on the Atlantic Coast Line between south Florida points and Georgia points the scale as indicated in this exhibit, which is substantially 15 per cent higher than the rates proposed to and from north Florida points.

The reason why rates to and from south Florida points are proposed on basis higher than rates to and from north Florida points is that the geographical location of Florida makes that State peculiar as permitting an exceedingly amount of trans-state traffic through the State of Florida, [fol. 617] the traffic of Florida carriers being that which originates at or is destined to Florida points.

Probably the only exception of any importance is the traffic of the Florida East Coast Railway to and from Cuba. The participation of the Atlantic Coast Line in the Cuban traffic, so far as Florida is concerned, is limited to the few miles of its line between the Georgia-Florida State line and Jacksonville.

Our observation has been that it has been very generally recognized that the conditions peculiar to Florida should properly be considered in fixing rates to, from and between points in that State.

Relatively speaking, the development in Florida is agricultural rather than industrial. Conditions in the nature of a boom in Florida during the last few years naturally produced an increase in the volume of traffic, and, of course, there is an increase in traffic that has been independent of the boom conditions. The agricultural production has increased, and of course, there has been within the last few years a heavy movement of building materials and road-making materials.

However, such general increases have been to a greater or less extent true in other southeastern States.

Generally speaking, interstate rates to and from points in the Florida peninsula are made on basis of rates to Jacksonville plus separate factors usually on mileage scales applicable south of Jacksonville. There has been some departure from this general basis in the application of inter-

[fol. 618] state mileage scales of the Atlantic Coast Line Railroad, as, for instance, in the case of log rates shown under the heading of south Florida, Description D, in exhibit No. 11. However, such conditions—such continuous mileage scales between south Florida and other states have been made on a higher level than have the rates to and from points in north Florida.

The Interstate Commerce Commission, in its decision in docket No. 13494, recognized different operating conditions in the Florida peninsula as contrasted with those in other parts of the south.

The action of the Interstate Commerce Commission in matters pertaining to rates to and from Florida points may be ascertained by reference to Florida Fruit & Vegetable Shippers Protective Association versus Atlantic Coast Line Railroad, et al., 14 I. C. C. 476, and subsequent cases of the same nature reported in 17 I. C. C. 552, 22 I. C. C. 11, and in complaint of the Florida Growers & Shippers League versus Alabama & Vicksburg Railway Company, et al, I. & S. Docket 886, reported in 43 I. C. C. 595; also in Docket 9604, Dawson Produce Company versus Atlantic Coast Line Railroad Company, et al, 49 I. C. C. reports.

I may say generally that in these decisions, while they bore upon the principle that the rates to and from Florida should and might be made on Jacksonville combination, of course, the effect of those decisions was to make the rates higher than customary in the South, and the Commission, [fol. 619] as I have previously stated, has recognized different Florida operating conditions.

In order that our proposal as to the application of the Alabama intrastate scale uniformly on the Atlantic Coast Line Railroad, not including south Florida, may be made clear as to the relative level of the rates so proposed, I file exhibit No. 24, containing such comparisons as may have this effect. This exhibit compares the rates to Meridian, fixed by the Interstate Commerce Commission for the Southern Railway in 60 I. C. C. 5, approved by the Interstate Commerce Commission, from South Carolina points to Savannah, in the Pierpont case, 59 I. C. C. 81, ordered by the Commission—Interstate Commerce Commission, in the Southern Veneer Company case, from South Carolina points to North Carolina points, 62 I. C. C. 69, the intrastate

rates in Georgia under the order of the Georgia Commission, April 15, 1925, and subsequently suspended the intrastate rates in Alabama now in effect and as proposed for uniform application on the Atlantic Coast Line Railroad, and the general scale of the Southern Railway—Southern Railway I. C. C. A-9783.

Exhibit 24 has been changed in the head-note to delete the part within the second parenthesis. It will be noted that the difference between the Alabama scale and the suspended scale in Georgia grows out of the fact that the Alabama Commission made the initial rate for 10 miles and under 2½ cents, while the Georgia Commission made the same initial rate for five miles and under. Beyond 30 [fol. 620] miles, the two scales are identical.

The progression in the Alabama scale is, in our opinion, to be preferred over the scale of the Southern Railway, this progression in the Alabama scale being one half cent for each 10 miles up to 40 miles; thereafter one half cent for each 15 miles up to 100 miles, and thereafter one half cent for each 20 miles.

The Southern Railway's scale increases one cent for the 20 mile jump from 10 to 30 miles, one half cent for the 10 mile jump from 30 to 40 miles, one half cent for the 20 mile jump from 40 to 60 miles, one half cent for the 20 mile jump from 60 to 80 miles, one cent for the 10 mile jump from 80 to 90 miles, one half cent for the 20 mile jump from 90 to 110 miles, one half cent for the 30 mile jump from 110 to 140 miles, one cent for the 20 mile jump from 140 to 160 miles, and so fourth.

The rates proposed are perhaps as low as any one could reasonably expect, and we propose the Alabama scale in preference to the other scales, because it already applied on our line in Alabama and because we consider it as a more perfectly progressed scale than the other scales shown.

That concludes our exhibits.

Examiner Brown: They were thereupon received in evidence as defendant's exhibits 10 to 24, inclusive.

[fol. 621] Cross-examination.

(By Mr. Perry:)

The rates under the Carpenter-O'Brien contract are still in effect as amended by the general percentage changes.

The contract provides that they shall continue during the time necessary to cut certain timber referred to in the contract, I do not know of any reason why there should be lower rates intrastate in Florida than interstate from Florida into Georgia from a transportation standpoint, and based on all other conditions being the same.

"Q. Then if the same transportation conditions exist interstate Florida to Georgia, as exist on the Coast Line intrastate in Florida, then would you say that the same scale of rates from Florida to Georgia should exist as exists on the Atlantic Coast Line in Florida intrastate.

"A. That is a new proposition, Mr. Perry. It goes without saying that as between Florida and Georgia it is merely a coincidence, for the purpose of this illustration, that this took place in Florida. If the timber had been in Georgia, probably the same result would have been achieved. In other words, there are no different conditions in Florida that would have justified the establishment of lower rates under the same controlling conditions than would be applied within the state of Georgia.

"Q. Is it your position that the Florida scale on the Atlantic Coast Line, should continue even in Florida?

[fol. 622] "A. We have a contract, Mr. Perry. We have lived up to it, and we propose to live up to it in accordance with the terms of that contract, so far as we may be able."

The contract itself fixes a limitation upon its existence. If it is outlawed by any proper judicial or legal decision that of course kills the contract. Comparing conditions now with the time when the contract was entered into, it would present a different story, or a different picture. We would not enter into such a contract today. I would rather have done it in 1914 than today, because the results in 1914, so far as any profit is concerned, are better than they are now. As to whether those rates under transportation conditions as they exist are now compensatory, the Florida intrastate rates on the Atlantic Coast Line, I doubt it very, very greatly. I did not make the statement that they are not compensatory. Of course, I understand that what Mr. Perry refers to as compensatory means a fair and reasonable profit over and above the cost of operation. My answer is not, of course, limited to the mere question of

what the out of pocket cost is. I doubt it exceedingly whether they are compensatory, as I said before, and that is based merely upon a general idea of operating conditions, together with such figures as I have seen bearing upon the cost of the service. Taking the transportation conditions obtaining in the case of the rates under review on our line in Florida, compared with transportation con-
[fol. 623] ditions interstate, there is not any reason now why those rates should not be applied interstate, if they are on a reasonable level. Taking the transportation conditions existing interstate as compared to the transportation conditions existing intrastate in Florida, there is every reason in the world why the Florida rates should not be extended into Georgia, because in the first place our whole testimony shows the conditions under which the Florida scale was made, and the obligations we have under that contract to carry out the agreement to apply that scale.

I think that contract rates should prevail, regardless of whether they are fair or not, as compared to territory similarly situated, and in competition with the same territory where the contract rates prevail, if they are legal—as long as they are legal—and I speak the mind of our management on that—as long as they are legal we will observe the contract. We do not want any opportunity to observe that anywhere else by our own act or by authority of any regulatory body. We have not renewed either of those contracts in the last two or three years, or four or five years; not since the original contract ran from 1914 to date, and there has been no change by way of renewal and the extending of the time by any act of our own; not since 1914, when it was dated. You understand that the Carpenter-O'Brien contract is now the Brooks-Scanlon Corporation contract, [fol. 624] and it is one contract. That is the only rate contract that is in effect. There was some reference made to contracts, I believe, in petitions for intervention that we have, but those are log train operators' contracts, and do not fix any rate. In other words, whatever is the customary rate between points covered by those trains, the rate applies, but the Carpenter-O'Brien contract, now the Brooks-Scanlon Corporation contract, is the only contract outstanding that contains a rate agreement.

[fol. 625] Making these train load log contracts is a very common practice, Mr. Perry. That is merely an agree-

ment, that is merely an arrangement to this extent, that on agreement to give us without fail a minimum number of cars a day, we send a special crew and power to move that train as a solid train, but there is no special favor in that. As a matter of fact, there is a penalty attached to it, because the man who gets that solid train operation is obligated to pay for the minimum number, whether he ships them or not. We furnish the equipment in that case. That service and the charge or rate is only permissible, and very naturally so, and practicable in situations which would not interfere with the through fast train service. In other words, the establishment of a train load movement by special train would have to be considered on its merits, as to whether it is practicable, and whether it would by its establishment cause interference with the ordinary run of traffic. so that these log trains are usually operated only on branch lines where that condition does not exist (Tes. pp. 235 and 236). We would not oppose that kind of service anywhere under similar conditions on branch lines if the tonnage was there. I do not want to convey the impression in answering your question that I was agreeing that we would be willing to handle logs in special trains in any other situation for the rates that now apply in the case of the rates under this particular contract (Tes. p. 236). The trainload service is separate and distinct from this Carpenter-O'Brien contract, although in the case of the Brooks-Scan-[fol. 626] lon Corporation the contract for the train service and the rate is in one document. We did not voluntarily submit to the contract beyond the time that we were legally bound. You will understand that it takes a good many years to move a billion feet of logs. I have no idea what the probable duration of that contract is (Tes. p. 237). Of course it would all depend upon the expedition of the logging operation, that is, how fast the logs are shipped. The contract is with a guarantee of 30 cars per day. That is approximately 360,000 feet. I don't know just what class of cars are used in that service but those cars generally carry about 5000 feet per car. All of the movement under the scale is not in train loads. We handle some single car lots. The movement is not confined to Jacksonville or Perry or any one point (Tes. p. 238). We handle various shipments of single car lots to various points on our line.

"Q. Is there any reason why the lumber manufacturer in Georgia should not have the same privilege of going into Florida and drawing logs under that same scale that the Florida manufacturer has?

A. I think there is every reason. Of course, if we had adopted that as a fair and reasonable scale for application on small lot shipments, we would have been in a position where it would have been inconsistent to say that it would not apply reasonably from Florida to Georgia; but I have endeavored to show the circumstances under which it became necessary to do that in Florida, which I supposed you understood. Under those conditions, of course, we do not [fol. 627] think it would be expected of us to apply it elsewhere except where required by State authorities in Florida. I would draw a distinction between the patrons of our line at the State line. We do that on nearly everything. Sometimes your (Georgia) Commission makes lower rates than the Florida Commission does, and although the State line is there, the difference exists. The Florida rates are sometimes lower than the rates in Georgia. They are made by different authorities, and naturally we do not adapt the lowest that we find everywhere for interstate application. It is notoriously a fact that if our operations as a whole were on the level of the intrastate rates, there are very few railroads in this section of the country that could exist. Of course it is understood that the Florida Commission has not required us to establish these rates except that they may be made open. The Florida Commission did not issue any order to us to put these rates in as applied on any number of cars, but they told us we would either have to do that, or cancel the contract, and we stuck to the contract. I don't think our interstate patrons are entitled to participate in that arrangement, not on that basis. On my exhibit 17, where I make a comparison of our interstate scales and show an average result, in making my compilations, I did not include an average of intrastate scales to see what the result would be. This exhibit speaks for itself. Every one of these is an interstate scale. The average is merely [fol. 628] shown really for convenience, to indicate that assuming that each of these tariffs covered an equivalent amount of traffic, that average would indicate how as a whole our new interstate scale compared with the rates that apply on that average. If I had included the intrastate

scales of all the States through which our line runs, this average would have been lower than what it is. I would not venture an opinion as to what extent, because there is such a variation in State scales it would be hard to estimate what the effect of an average would be. In my studies of the movement of logs on our line, I have not made any study to indicate that the preponderance of movement is interstate or intrastate, but the nature of the log movement is generally such that the movement most largely is intrastate. This lower scale or lower average that would have resulted, would move the preponderance of your log traffic, unquestionably. Of course, you understand that this is a comparison of an interstate scale against interstate scales, and it represents only that; in other words, it would cover only such logs as would move interstate, and it does not attempt to show a change in the revenues that we would get on all the logs, including intrastate logs. As to whether the absence of discrimination is more important than the level of the rates sometimes, I might express it in one way, and say that I think perhaps it would be certainly within the bounds of reason to say that 75 per cent of the complaints that are made are against discrimination, and not against [fol. 629] the level of the rates, and I think that on that account uniformity on all commodities is desirable, including logs. It is just as important to have a uniform basis of log rates as it is to have a uniform basis of rates on any other commodity. I did not say that the present high level of log rates from Florida into Georgia versus the low level of rates from Florida to Florida created discriminations against the Georgia shippers, no.

"Q. Now as to your proposal, Mr. Perrin, to remove this discrimination complaint brought by the George- Commission by the use of the present Alabama scale, and which you propose to apply interstate between Alabama and Georgia, and I believe South Carolina and Georgia, was it your purpose to convey to the Commission that that scale should also be used in Florida?"

"A. Why, I made no proposition as to that, Mr. Price, as to the intrastate rates in Florida, I made no proposition as to that."

Of course, we have to look forward to the Florida intrastate situation. If it should not be fixed in this case, it will

have to be fixed by the Florida Commission just as it will be in the Georgia situation, and I made no proposition as to the rates in Georgia, because that is up to the Georgia Public Service Commission. The Georgia rates are not under review here in this proceeding. I was suggesting a scale to apply uniformly wherever we could get—wherever we could possibly get the consent of the State authorities and the Interstate Commerce Commission to let us do [fol. 630] it, and I suggested a scale which I think is reasonable and has been recognized in numerous situations as reasonable. I did not suggest it to apply within the State of Florida because this would not be the proper time to suggest that, nor would it be the proper time to suggest what the rates should be in Georgia.

"Q. I cannot agree with you there, because the Florida rates insofar as this scale is concerned, are under review here, and the Georgia rates are not. Now in adopting or proposing to adopt this Alabama scale, does that carry with it, the full order of the Alabama Commission on logs, billets, blocks and so forth?"

"A. Does it carry the full order?

Q. Yes, sir.

A. It is in accordance with the order of the Commission.

Q. Including logs, billets, and blocks?

A. I understand so.

Q. That is your proposal?

A. Yes, sir.

Mr. Price: That is all."

I didn't say that the present intrastate rates in Florida on the Atlantic Coast Line are discriminatory against parties desiring to use the interstate rate between Florida and Georgia points. We will have to leave it to these gentlemen to say that. I would not express that opinion, Mr. Perry. What I am doing here is to put up a full statement of the facts just as they exist and it is for the Interstate Commerce Commission to pass on that particular question. I refuse to answer the question to that extent.

I am familiar with our answer in this case. We merely state that there may be discrimination, but if so, it is under conditions beyond the control of our company, and of course, under that answer it is up for decision. What I

mean by being beyond the control of our company is the [fol. 631] matter of these contract rates.

"Q. Let me ask you this question, Mr. Perrin: Is it your opinion that the lumber manufacturer at Valdosta, or Thomasville, or Quitman, can compete with the lumber manufacturer at Jacksonville and other Florida points where they have the Atlantic Coast Line rates in Florida?"

"A. I would not like to answer that, Mr. Perry, because in order to answer that it would require a knowledge of the lumber business, and there are so many situations where a lumber man will go right into the other lumber man's territory and compete with him at a much heavier expense, that it is impossible for me to pass upon the effectiveness of competition on lumber."

As to whether or not it is to the advantage of a given business to have an advantage of 200 to 300 per cent in freight rates, I think any advantage is bad, but as to the ability to meet competition I cannot speak definitely or intelligently about that, because I know so little about the competitive conditions that exist between lumber men, and their ability to purchase logs, or to sell lumber, credits, and so forth. I canot pass on that (Tes. pp. 246-249).

By Mr. Thurtell:

"Q. Mr. Perrin, the question that was last asked you by Mr. Perry or Mr. Price, and your answer in regard to it, suggested this to me: It is true, or is it true, that there is an apparent rate disadvantage against any shipper in Georgia seeking to draw logs from Florida for milling in Georgia as compared with a shipper in Florida seeking also to reach the sources of logs in Florida?"

"Exam. Hillyer: Doesn't that call for a conclusion as to testimony offered by other witnesses rather than his own?" [fol. 632] "The witness: Mr. Examiner, may I answer that in this way: I have read Mr. Perry's last question, and my answer, and the answer was made on the understanding on my part that he was still referring to competition, and not to the mere question of differences in rates, and of course, I would not think for—and of course, I

would not have said for a minute, that on its face there is not a rate disadvantage."

Q. Then your answer to my question would be what?"

A. That there is a rate disadvantage."

By Mr. Price:

Q. Would you consider that as a discrimination, Mr. Perrin?"

A. Well, I am hardly prepared to say that."

Mr. Price: That is all."

Exam. Hillyer: That is a conclusion of law" (Tes. pp. 254-255).

[fol. 633] Valdosta, Ga., October 22, 1926.

(Met Pursuant to adjournment.)

Cross-examination of witness (Perrin) resumed.

(By Mr. Cotterill:)

My duties have brought me in contact with the general subject of log rates over our system and its different parts and I know something as to the situation as to log rates in general throughout southern territory on other lines. I have been indentified with the Atlantic Coast Line Railroad in a responsible executive position for quite a few years (Tes. p. 256).

There was a time, if it is not now, when the lumber industry furnished the carriers in the South a very large proportion of their total traffic. To some extent the development of the railroad systems was influenced by the lumber industry; to a large extent it was a region of shorter lines that were subsequently absorbed into what you might call systems. In other words, in two respects the lumber industry itself and its development furnishes the explanation of the development of substantial parts of the railroad mileage in southern territory, more particularly of the branch line service in southern territory. In several situations railroad development took the form of welding together disconnected shorter lines. (Tes. p. 257) I don't think it would be entirely correct to say that

in the case of most of the more important lumber mills of which I have knowledge, there were always extensive negotiations with one or more carriers concerning the place where the mill would be located with respect to the move-
[fol. 634] ment of logs. I would rather say, and I think it would be more true to say, that the shipper makes his location and negotiates the transportation and his rates from that location. I do not believe it would be generally true that the carrier participates in the decision as to where the plant should be located. As an incident of the setting up of the business of any of the large mill operations, there have always been, so far as I can recall, in the more important cases extended negotiations with the carriers concerning the physical methods of handling logs, and as a rule the charges that shall be applied to them. That is true, but not as to location. Of course the lumber just locates itself, and as to the point of manufacture, the shipper himself decides that. The carrier has nothing to do with that. As to whether it has always been in the past at least a matter of importance to the carrier offered the business to determine what would be the volume of the log movement, that would be true, generally, yes, sir, if there were any special arrangements to be made for the handling of the logs. The carriers have been concerned generally not alone as to the volume of the movement, but as to the regularity of it (Tes. p. 259). And they have been concerned with the length of the haul and with the turnaround of the equipment to be used for the particular movement and with the question of services at both ends of the line, and where the carrier's actual expense begins and where it leaves off. Generally in the case of any considerable
[fol. 635] line haul movement of the logs, there are connected with the common carrier rails additional tracks owned or controlled by the lumber people themselves. It is over those rails that the logs are first brought right from the forest to some point of connection with the common carrier rails, speaking now of the cases where the common carrier handles it in the shape of logs. One very common course is for the mill to locate itself right in the forest, and by their tap line or some other form of non-carrier operation, it may assemble the logs right at the mill, and in that event the transportation service which the

trunk line common carrier renders is as to the finished product alone. There is another course of operations involving an inbound shipment of logs by railroad to some extent in distance, which occurs in relatively few situations so far as our company is concerned (Tes. p. 260 and 261). There are cases where it is generally provided by contract that the lumber company may use the equipment of the common carrier for service over the non-common carrier part of the through line. I would not say that that is the most universal practice on the Atlantic Coast Line. In as many cases as not I should say that the log shipper operates his own cars, and his log loaders transfer to the railroad cars at the junction point. As to whether the practice is variable, depending upon the important elements such as the volume of the movement, the responsibil-
[fol. 636] ity of the people involved, and the type of other freight to be handled by the railroad over that particular division, I don't know that those would be controlling reasons. I think largely it is a question that the shipper decides for himself, as to whether it is economical, and the carrier decides as to whether it can afford to allow that particular shipper to use its own cars. In any event, when such use is provided for, there is provision made by contract between the carrier and the lumber company respecting the upkeep and maintenance of the equipment. Generally there is a provision against damage to the equipment. I would not say that there is any provision cover-
[fol. 637] ing wear and tear. As far as I know, there is no basis for assessing charges for wear and tear of the cars. Of course, the user of the car is supposed to insure the safe return of the car to the carrier in proper condition, but I do not think it is the general practice to assess a charge covering wear and tear. Sometimes the industry furnishes the cars almost entirely or in large part and the common carrier uses the cars furnished by the industry. Those cars are subject to the uniform rules governing the use by one line of another line's cars. There are varying circumstances of an important character surrounding the common carrier movement of logs in connection with different lumber mill operations at different points on our system or on other lines, and there is a considerable variety of actual circumstances of transportation, although

I would not say that that produced actually different results in the arrangements made by the railroad company (Tes. p. 263-264). In the past it was true to some extent that the matter of the rates on logs was in large measure determined by the carriers in the light of the particular conditions to be confronted by the carrier in the movement of the particular logs. I would say, though, that the carriers have not been altogether responsible for the level of the log rates. A great many of the log rates were put in over the protests of the carriers, and in some cases after legal contests, and of course, I refer there to State authorities and their actions, so that as a result of the intrastate rates it has naturally followed that the general level of log rates has been reduced below what they would have been [fol. 638] without that influence. Even without reference to the matter of state regulation it was not uncommon that particular rates on logs were made for the particular movements and determined by the carriers with respect to the obligations which they incurred and the peculiar circumstances surrounding those particular movements, but that would carry with it exactly what those circumstances were.

It is true of virtually every other commodity, that most of the southern carriers have had for years, and still have, either published or unpublished, mileage scales. As to whether these are what might be called maximum rates, available in one sense to anybody without negotiation at all, I would say locally that is true. Of course, there are rates higher in one section than some mileage scale in another section. There are some cases where the logs are floated down a stream to the mills. We have logs moving now in that manner, moving by water. The shippers have always had an opportunity to some degree to make the selection of the location which would allow the floating of logs in, when the timber was available to water transportation.

"Q. Assuming those conditions, so that as to instances of that character, that form of competition has been and was a circumstance and may yet be in some cases, a circumstance bearing upon the measure of the particular structure of rates on logs that might be supplied by a carrier for individual movements?

"A. Not in connection with the Atlantic Coast Line Railroad that I can recall has that ever been the case. As I

say there is a movement of logs in several situations by water, but wherever water transportation of that kind, rafting the logs, and floating them on streams is practicable, [fol. 639] it is so far below, the cost of it is so far below what you could expect to get out of it with a reasonable profit, that we do not attempt to meet that kind of a situation."

At least, that has been the Atlantic Coast Line's policy, and I know nothing of what may have been the attitude of other carriers in individual situations.

The carriers of the South in all instances have been the subject of regulation of State authorities (Tes. pp. 266-267). The common carrier movement of logs in the very nature of things, must be comparatively short in mileage, although unfortunately they sometimes move them too far. That is artificially stimulated, or in the nature of making water run up hill.

The great overwhelming movement of logs by common carrier railroad transportation is intrastate in character in southern territory. It is certainly the greater part of the log movement. In 1916 the Atlantic Coast Line Railroad Company in association with others in the south, conceived the idea of undertaking to effectuate something like uniformity or substantial uniformity of transportation charges on logs and all other commodities throughout southern territory. Petitions were filed with the Alabama and Georgia Public Service Commissions, but it is not true that as a rule they made advances. Those propositions as shown by the testimony submitted along with the petitions, were worked out practically along the lines of levelling up and [fol. 640] levelling down. In our own case, of course, this log scale as so submitted to the Alabama and Georgia Commissions represented material reductions from the log rates that were in effect on our system (Tes. p. 270).

"Q. That is, you are speaking of leveling up and leveling down interstate and intrastate?

"A. No, as between different railroads.

"Q. That was partly true?"

"—. Yes, in other words, as a result of these petitions the Atlantic Coast Line would have reduced the log rates in its general territory."

Naturally we wanted to limit the reduction as much as we could. Of course this proposition was based upon the principle of uniformity. And with entirely different situations on different lines there naturally had to be a give and take proposition. On logs it so happened that as to our interstate scale which we proposed to supersede by the scale submitted to the Georgia Commission, it made all-round reductions. As applied to the other movements in Georgia it meant increases (Tes. p. 271). Of course it meant increases on all lines in Georgia. In practical consequence as affecting the traffic under which actual log rates move, it was a revenue increase for the Atlantic Coast Line, but the petition was not filed on the theory that we would have no increase in revenue. In fact both Commissions were fully aware of the fact, and they recognized it, and have actually since granted substantial increases all around. The practical consquence of that compromise was equalization as between carriers and would have resulted in a substantial revenue increase on the log traffic not only [fol. 641] to the Atlantic Coast Line but to all the railroads. You understand that we would not have to submit to the Georgia Commission a proposition to make any decreases in rates. In other words, we could make the revisions by reductions if we wanted to. The sum and substance of the figures agreed upon between the different carriers for uniform application would be nevertheless a substantial general aggregate increase in the cost of transporting logs in the southern territory, and as to Alabama that was authorized (Tes. p. 273). As to the measure or standard of reasonableless which I set up as the basis of comparison in determining the reasonableness of this general log rate structure, I don't know of any more conclusive authority than the Interstate Commerce Commission. I have reference to the Pierpont case and the Southern Veneer case as indicating what the Commission thinks should be the scale in this territory. I don't think, however, that you will find in anything that I have said, or in the exhibits that I have filed, any statement on my part that even we think there is anything unreasonable in our existing interstate scale (Tes. p. 274). An additional test of fairness and reasonableness I think is shown in my exhibits themselves. We have a situation here both as to intrastate com-

parisons and interstate comparisons, and we show the level and revenue results from the handling of various classes of traffic. We show the comparison between that and our interstate scales. We show that we are getting on logs ma- [fol. 642] terially less than on the other grades of traffic which are the lowest grades that we have, so that the question is as to whether our interstate mileage scale—assuming that the rates on the lower grade traffic, such as sand, gravel and so forth, which constitute the large volume of traffic in this section—assuming that those are on a reasonable basis, it certainly cannot be argued that the log rates are unreasonably high (Tes. p. 275). As to whether I derive any impression of reasonableness of the proposed scale merely by comparison between it and the existing interstate scale, I did not make any observation of that kind yesterday, nor did I submit any figures of that kind. What I have done is to prove the reasonableness of our existing interstate scale, and I believe that is absolutely true. Our suggestion as to the adoption of the same scale as in Alabama is merely under the stress of circumstances whereby the Commission in other cases has set as a measure for general application in this territory the so-called Pierpont scale (Tes. p. 277). As to the theory which governs in the determination of reasonable rates now in effect from Florida to Georgia there is nothing exact in any rate. There is no authority in the world that can take a rate in and of itself and by itself, and say it is a reasonable rate. If the rate is fairly compensatory and permits of the movement of traffic, I don't think there is any question of a doubt that [fol. 643] in the absence of a discrimination feature but what it is entirely a reasonable rate, compared with another line of rates, regardless of the character of the traffic on the railroad. That is to say, that on the lowest grade traffic, some of it moving almost at nominal rates, as compared with that low grade traffic this log traffic is not, under the present scale of rates, yielding sufficient revenue (Tes. p. 277). I am speaking of the existing interstate rates.

If one wishes to test the reasonableness of the general rate level on logs throughout southern territory by comparing that with other commodities, one should compare it with other commodities and the rates thereon moving

throughout southern territory. Naturally a comparison on a commodity that does not move is not worth much.

"Q. Precisely. Why, for instance, do you make a comparison of a proposed log scale which you conceive to be reasonable for application throughout the south, with a mileage scale on brick between two points, or in a certain restricted section of the south where brick is not manufactured or shipped at all?

"A. Well, if there is any section of the south where brick is not manufactured, I would like to go out and see it. If there is anything next to lumber that is more universally manufactured, in all parts of the south, it is brick."

The transportation charges on brick for general southern application are the consequence of proceedings before the [fol. 644] Interstate Commerce Commission in I. & S. 1885. I think that is the number, and in that instance the mileage scale for brick was prescribed, with a measure of grouping of origin points permitting the use of the scale from either a central or key point to the group. I do not know whether that scale was put into effect intrastate in Florida. I show, however, what is our intrastate scale in Florida.

"Q. Mr. Perrin, among the comparisons which you are here making in support a general and approximately uniform rate level on logs for southern application, is one with an interstate mileage scale on sand and gravel, between the state of Georgia and the state of Florida. Would you say that these rates that you have set up in that way on various of your exhibits may be taken by this Commission as an indication of what is the normal existing rate level on sand and gravel for movements of that length.

"A. I don't think there is very much difference, Mr. Cotterill, but if there is any question about the propriety of that comparison, I will be very glad to run a comparison of logs against a lower scale—against the lowest scale of sand and gravel rates that you will find in the south."

"Q. What I have in mind at the moment, Mr. Perrin, is this: You are aware, are you not, that just next month, in a couple of weeks, there is to be argued before the Commission by some of the counsel present, a proceeding in a nature of a rather general investigation of the structure of sand and gravel rates in southern territory?"

"A. I have no connection with that, but I understand—"
"Q. You know there is such a proceeding pending?"
"A. Yes, sir."

I can imagine there must be very few instances in which [fol. 645] considerations other than competitive forces brought about in southern territory individual point to point rates covering large movements of sand and gravel in specific cases (Tes. p. 280). A great part of our concrete aggregate moves on mileage scales throughout our system, and we have very few point to point rates on that kind of material. The Coarse Concrete case before the Commission is entirely foreign to this particular part of the territory. You are talking about the situations that are somewhat removed from this situation between south Georgia [fol. 646] and Florida. In other words, if there is anything that really is close to a uniform application of mileage rates, it is on these road building materials on our whole system. The road building work is going on from end to end of the line today, and we have made and have succeeded in securing the application of a uniform mileage scale in all of those sections. I did not say that the mileage scale shown on my exhibit 18 and succeeding exhibits on sand and gravel were typical of the standard rates of that class of traffic throughout southern territory, and I say to you now that I am willing to substitute for it the lowest scale of rates in the Southeast, just place it in that column and let it speak for itself (Tes. p. 282).

I believe there is a general proceeding pending before the Commission involving the general rate level on cement in southern territory. I have not said that the tables on cement shown in my exhibit 18 represent the general existing rate level on cement in southern territory, and I have not asked the Commission to assume that that was so stated or inferred. In other words, I have represented there what the rates between south Georgia and north Florida are on cement, as compared with the rate between south Georgia and north Florida on logs. That is the only thing that that exhibit is intended to show. Cement is manufactured in Georgia at Rockmart and other places. Rockmart is just a little beyond Atlanta (Tes. p. 284). I do not know the relative size of that mill. I did not make any

[fol. 647] comparison of the rates I have shown here with Rockmart rates. If you think there is any intention to indicate something to the Commission that is not right, I will be glad to show a comparison between the mileage scale from Rockmart today with the low rates between south Georgia and Florida. I would like to show that (Tes. p. 285).

I should think there would be movements of lime under the mileage scale on lime from Georgia to Florida, which is shown in my exhibit. I should not think that that scale is very far off from the general rate level on lime in southern territory. I am only basing that statement on a general recollection of the existing rates (Tes. p. 286). There is no reason that I know of why the rates in other parts of the southeast should be taken as typical of the rates between south Georgia and Florida any more than the rates that actually exist between south Georgia and Florida. It will be just as much of a strain to say that the mileage scales that are applicable elsewhere in the southeast would fairly represent a comparison between south Georgia and Florida. Even if I should substitute the figures for the figures shown in my exhibit it would still appear that our proposed log rates are lower than on these other commodities. I think it would appear very favorably. I would not say that they would be still lower because I haven't got the figures before me; I haven't seen them. They certainly would not discredit the log rates (Tes. p. 287). Undoubtedly in the distribution of this total traffic burden between specific descriptions of traffic, some commodity has [fol. 648] to have lowest rates of all. The mere fact that you find any one commodity taking lower rates than another, does not of itself in part condemn the rate level on that lowest rated commodity. There is nothing in the characteristics of logs as freight traffic that would justify any lower level of rates on logs than on sand and gravel, either as to the transportation revenue results, or from the value or claim damage standpoint or any other transportation features that you might consider (Tes. p. 288). In saying that there is no reason why the rates on logs should be lower than on brick, sand and gravel, I did not say cement. You are speaking of sand and gravel. You deliberately said sand and gravel. Then the record shows

that the answer does not refer to coment. As to the circumstances which controlled me in the conviction one way or another, as to whether the rates on logs should be lower or higher than the rates on these other commodities, they are all cheap, they are all heavy, they are all without claim risks, there is no condition that I know of, with the possible exception of cement, which might have a higher value that would probably justify a lower rate on logs. I don't know that I could say that there should be the same rates on brick, sand and gravel, lime and cement. I think this; that there they are all down to minimum figures. I stated that rates on sand and gravel and lime should be lower than on logs, not higher. That was the intent or pur- [fol. 649] pose of my answer. In other words, I am not trying to fix a difference between the logs and the road building materials (Tes. p. 290). Conversely, the logs should carry higher rates than sand and gravel. I do not wish my first statement to stand, but I wish to state that logs should carry a higher rate than sand and gravel, yes. That was the purpose of whatever statement I made, whether it was involved or not, I don't know. I think as a general proposition it is worth more to the shipper to ship logs than it is to ship sand and gravel. I have nothing else in mind. Not from a transportation standpoint. We do have this, that there is more risk in the handling of logs than there is on these other commodities. The log traffic is to a certain extent dangerous. There is hardly a train that is run that does not drop some of the logs along the road. I won't say there is hardly a [redacted], but there are many logs that fall off trains as they go along, and all that is dangerous (Tes. p. 291). I recognize that the element of what [fol. 650] the service is worth to the shipper properly enters into the question of reasonable rates and the comparison of one commodity with another. I think we should get more money for carrying silks than cotton, irrespective of the similarity of circumstances. We have got to distribute the rates in some manner so that the lowest grade traffic will bear a less burden than the higher grade traffic. The comparison with cement and other commodities was made only because these other commodities that are used are the lowest grade traffic that we handle. The comparison of the log rates with the cement rates does

not condemn the cement rates as being too high, because we concede some higher level to cement than on these other grades of traffic, but as between sand and gravel, about which we are now talking, there is no difference that I know of that would justify a higher rate on sand and gravel than on logs (Tes. p. 292). As to the propriety of the higher rate on brick than on logs, it is rather a hard thing on the witness stand to pass judgment on what rate adjustments should be on the entire line of one commodity. I do not say that the rates on logs should be as high as the rates on brick. I do not say the rates should be made on that basis. I merely show these comparisons to show the low level of earnings resulting from the present rates on logs. I do not undertake to say that these comparisons indicate that those earnings are too high or too low. I have therefore selected these figures as the proper rates on logs and I attempted to justify that by showing that it yields low revenues as compared with other even lower grade articles. [fol. 651] (Tes. p. 293). We fixed that as the scale on logs, and that is what we are trying to defend as a reasonable scale of rates. I do not say that we are not getting enough from the logs, not in that particular connection. I do say that our log traffic as a whole is being handled on too low a basis. My comparisons are intended to indicate to the Commission what in fact are our earnings from these different descriptions of low grade traffic, and with the necessary inference as to whether the log rate is reasonable. I don't know that I could say that sand and gravel alone are the articles on which I have pronounced convictions as to what should be the comparitive rate level with logs. Perhaps if I had looked through the tariffs and found other commodities I might make similar comparisons, but I merely selected the very lowest grade of stuff that we handle in this section, and stuff that is actually moving in large volume (Tes. p. 294). Now, I could go out and find comparisons with traffic moving in other sections that would not mean anything at all in this section. If you suppose the actual log rate earnings were even lower than they now are, and you compared such lower log earnings with the earnings derived from these other descriptions of traffic, that mere comparison would suggest to my mind that the earnings on logs were too low, if the other rates were right. There is

no yardstick that you can measure it by inches. You have [fol. 652] got to use your judgment in making any rate structure. It is only by comparison of values and transportation characteristics, that you are able to reach a proper conclusion (Tes. p. 295). I think this, that any characteristics that the log traffic has ought to be considered in making log rates just as you would consider any characteristics in connection with any of these low grade commodities. It is practicable, yes, to have the same level of rates everywhere in the south in the case of your merchandise traffic moving throughout the whole of southern territory and apt to move at any time from one point to another. That is true of many of the higher grades of commodities and some of the lower grades of commodities as to which the carriers themselves have proposed mileage scales. In the case of these commodities we have varying and shifting movements of varying lengths and indeterminate destinations. This is true because of this fact, that the desirability of uniformity is such that in many cases it is a very expensive change. In many situations it costs some individual carrier a large part of its success, that is the establishment of uniform mileage scales or uniform rates on all traffic on mileage scales.

"Exam. Brown: Let us confine our testimony to the commodities covered by these exhibits.

Mr. Cotterill: The question I had asked was to obtain from the witness, if I could, a concession that logs did not lend themselves anywhere near so readily to the process of unification of rates in disregard of specific conditions as may be true of other and higher grades of traffic.

The Witness: Well, I think they do lend themselves in just the same way that other traffic does."

Of course, it is at a sacrifice in some situations, but you do get uniformity, and that is a very desirable considera- [fol. 653] tion. I cannot foresee what the sacrifice to the Atlantic Coast Line Railroad would be if the log rates in Florida were to be advanced to anything like this existing level which I propose.

I should say that speaking in a very rough way—it is purely an estimate on my part—half of the logs that we handle produced no outbound product for transportation

by our line. A very large part of the logs that we handle from North Carolina, say, go to Norfolk, are sawed into lumber, and the lumber goes east where we do not go. Perhaps the largest individual movement of logs that we handle in South Carolina go to western North Carolina furniture manufacturing points, and there we do not handle anything. In the case of Georgia we probably handle more products relatively than in any other state. In the case of Florida the movement of logs far exceeds the outbound movement of lumber by our railroad (Tes. pp. 300-301). I might say here, for instance, just to illustrate that, that during the last two years we handled from the Perry branch to the Brooks-Scanlon Corporation, this is for two years [fol. 654] ending September 30, 1926, 31,721 cars of logs, and we handled out in the shape of lumber, 1,586 cars. Now if it be proper to equate the lumber production with the use of logs on basis of three cars of logs for one car of lumber, that means that we handled just 15 per cent of the output of the mill. Now, as I say, in the other stations further north, we do not get any of the outbound movement. Of course, there are scattered movements into these states where the logs move into the mill and the lumber moves out on the Atlantic Coast Line, but in the aggregate I would say that we do not get a haul on more than 50 per cent of the logs that we handle. From the standpoint of tonnage alone the log movement is of more importance to the Coast Line than the lumber movement is under the existing situation, and it really makes it distressful to us inasmuch as we have to count our dollars on what we get from hauling logs, and we are hauling logs on the basis we used to haul them on when we got the lumber (Tes. p. 301). I do not know whether the conditions generally are the reverse on other carriers in other states or not, but at least it is true that so far as concerns the Atlantic Coast Line Railroad Company, we are so situated that the revenue to be derived by our road from the movement of logs is of keen importance by itself, irrespective of the revenue derived from lumber.

"Q. And that would be an additional circumstance which would prompt the Atlantic Coast Line Railroad Company in its negotiations with other carriers to insist upon as high a rate level on logs as you would be able to in those

conferences secure agreement to from the other carriers?

"A. Well, I would not say as high as we——

"Q. As high as the other carriers would agree to?

"A. I don't know that that is altogether true, because I don't know the conditions under which the other carriers [fol. 655] operate" (Tes. p. 302).

When a log falls from a car the consequence is generally a wreck, or frequently a wreck, but so far as the logs themselves are concerned, there is substantially no claim liability.

I would not try to fix the value on these logs. Logs vary all the way from Virginia to Florida.

"Q. Well, when you made mention of the values of logs as compared with the values of other commodities, and the ability of each to stand a given rate level, was that statement made without knowledge of what those values of logs are?"

"A. Well, at one time I knew a good deal about the value of logs, but the best I can say now is that the log value has of course grown with the increased scarcity of timber. Now, just what it stands today I would not try to say."

(By Exam. Brown:)

"Q. You are testifying now from hearsay, are you not, rather than from your own actual knowledge?"

"A. I am no lumberman."

(By Mr. Cotterill:)

Q. However, I will ask you, Mr. Perrin, this, please. As a general rule, when there are movements of logs by common carrier railroads to saw mills, are those movements what might be thought of as nearly the equivalent of train loads?"

"A. That varies. In some cases it will constitute a large part of the train, and in other cases it will be small."

"Q. You understand my question, did you, to be confined to movements of logs to saw mills?"

"A. Yes, sir."

"Q. And you say even there in some cases the movements would be in substantial train loads, and in others, it would be small and mixed with other freight?"

[fol. 656] "A. Well, in no cases, unless there is the operation of a special log train is the train composed entirely of logs. Frequently logs constitute the larger part, and frequently a very small part of the consist of those trains (Tes. [fol. 657] p. 303). That depends very largely on the volume of the shipments, and that is about equal to saying that if a man buys in single car lots, or a dozen car lots, he ships in small quantities from this or that station. If a man owns his timber in the woods and cuts it and ships it in regular trains, he perhaps ships larger, more per day, than the other shipper to whom I have referred, and that varies very largely. It is true in some cases of saw mills of any considerable size the source from which that mill obtains its logs is a fairly constant one, and it derives its supply from more or less regular movements in substantial train lots, and yet I know of some cases where it is a marvel to me how they run at all, because they may ship from the north today and the east tomorrow and the south next day. Those are not comparatively rare situations. We have had in the last two weeks to review that whole situation in South Carolina, and it was astonishing to me to note how haphazard the movement of logs is to those plants. I don't know just how that movement in train loads is in Florida; have not investigated the movement in regular trains. I do know that there is a good substantial movement other than that that is moving in regular trains. Just how many they move in each of those regular trains, or how it would average, I would not be able to say (Tes. pp. 305 and 306). There are many movements in Florida under this 170 mile Cummer scale that are not in [fol 658] special log trains.

On my Exhibit No. 21, where I have stated the percentage which certain log rate scales bear to an underlying mileage rate scale on lumber, I would say you might infer that it has been customary in certain situations to observe a rate relationship between lumber and logs. Now, that does not necessarily mean that I think that the lumber rates ought to be the guide in making the log rates, but I prepared that exhibit, and I made the statement in my testimony that the purpose of it was to show that our interstate mileage scale bears a percentage relationship to these lumber rates to

Meridian as fixed by the Commission and as they exist in the underlying mileage scale to which you refer, not inconsistent with what the rate authorities in the Georgia Commission and in the Florida Commission have observed as a proper relationship between logs and lumber. I also referred to the fact that the only other case that I know of, with which I am familiar at least, is in South Carolina where for many years they have handled log rates at 80 per cent of the lumber rates. On logs they have no mileage scales, it is a classification provision that logs are classified 80 per cent of the lumber rate. In that State we have a few specific point to point log rates that are less than the classification basis. From my Exhibit No. 21 it is not my view that there is a necessary connection between the rates on lumber and the rates on logs. The data upon which this exhibit was based was furnished me by our auditing or ac- [fol. 659] counting department. It was reported to me that the total revenue of the Atlantic Coast Line Railroad derived from the handling of logs in the month of May, 1926, was $121,015.66. Within that total is the revenue which the Atlantic Coast Line Railroad Company derived from the transportation of logs under the so-called Cummer scale. Our accounting department did not segregate the revenue derived by our railroad from the movement of logs under the Cummer scale, and our traffic department has not furnished any statement of the revenue derived during the period of time from the movement of logs in train loads, as distinguished from miscellaneous commodities. The accounting department has not furnished a statement of the revenue derived by the A. C. L. under the several contracts to which reference has heretofore been made (Tes. p. 309). I do not know approximately the revenue derived under the contracts which are of record in this case. I would not be able to question or deny or affirm your statement that more than half of the total revenue derived by the Atlantic Coast Line for transportation of logs on its whole system is derived under these contracts. We have no figures to segregate one special movement from any other part of the general movement of logs. So far as the amount of revenue is concerned, under the train load movements under the Cummer scale, I cannot estimate it. Of course I do know that the movement under these log con-

tracts in every-day train movements is a very large move-
[fol. 660] ments of logs. As to whether it constitutes a very large proportion of the total revenue derived by the Atlantic Coast Line Railroad for the transportation of logs throughout its whole system, I would have to prepare statistics to say. I would not try to estimate it. In all of this evidence which I have submitted, in chief, my purpose has been to establish the reasonableness of the existing interstate charges on logs from stations on our line in Florida to destinations on our line in the State of Georgia, that is, from north Florida. Nevertheless, we are proposing to reduce existing rates from north Florida to Georgia. The rates we are undertaking to establish from north Florida to Georgia are less than what we think would be reasonable rates. I think it perhaps would be well for me
[fol. 661] to explain just why we adopt as our proposal the Alabama scale (Tes. p. 312). In response to the petitions to the Georgia and Alabama commissions, the Alabama Commission acted and established a certain scale. The Georgia Commission acted and established substantially the same scale, in fact identically the same scale, for 30 miles and over. We thereupon concluded that in the interest of uniformity we would apply between points in Alabama and points in Georgia, and within the State of Georgia, the Alabama scale, notwithstanding the fact that in a few instances it would be lower than the Georgia Commission had authorized. We likewise proceeded to handle with the South Carolina authorities to adopt the same level of rates, which they have agreed to. In that State there will be both increases and reductions. In the case of a few destinations it would increase the rate ranging from one fourth to one half cent per 100 pounds. In all the rest of the State it would reduce the rates practically the same amount. We proceeded at the same time to establish the Alabama scale between South Carolina and North Carolina, and between North Carolina and Virginia. Independent of our proposition here we have been working all along toward the adoption of the same uniform level of mileage rates. Now, it so happens that the Interstate Commerce Commission has fixed in two of the important situations almost identically the same as we get
[fol. 662] from the Alabama scale. There is a difference

only really in progression, and we are here asking that the Alabama scale be adopted in preference to the scale ordered by the Commission in those cases, the South Carolina cases, because of the difference in the progression.

In other words, we think it would be unfortunate to destroy uniformity by not adopting for interstate application from South Carolina to Georgia, a scale that differs only in minor details from the Alabama Commission scale, which is already in effect, particularly in view of the fact that under the scale that has been ordered by the Commission in these South Carolina cases, we would get that uniformity by making reductions for three blocks of distances, and making increases for three blocks of distances of one half cent, and reduction in four blocks of distances of one half cent. The revenue effect of these changes in those two instances, on this Alabama scale, would be to reduce South Carolina and increase North Carolina. As for Georgia, it would be an increase as against the present—I would not say it is such a large increase there. In other words, it would be almost identically the same scale as the Georgia Commission put out and suspended. The substitution of our proposed scale would effect some increases in Georgia, but I would not call them extremely large increases. The effect in Alabama is identically the same as in Georgia. [fol. 663] What would be its consequence if applied in the States of Tennessee and Kentucky would be a tremendous reduction in Tennessee on hardwood (Tes. p. 315). If substituted for existing rates within Florida, the consequence would be a very material increase. I have not even figured on Virginia, because we have so little mileage in Virginia; that it is unimportant, I am quite sure, though, just from general knowledge that it would reduce the rates in Virginia. We, however, do not haul any logs in Virginia. The question of whether the proposal would cause substantial increases in Georgia, Florida and Alabama or not depends on what you mean by substantial. It would produce in the Carolinas probably more reduction in revenues than increases, because the State of North Carolina has nearly cut out the logs, and there are more logs handled in South Carolina than in North Carolina. Just how much we would be affected in Georgia, I have not figured on. I do not even recall just what the present scale of rates in Georgia is. Of

course they were restored since the proposed scale was suspended, but my impression is that the increases are not so tremendous. In Florida it would increase the log rates.

There is no substantial claim liabilities on logs. I should imagine there would be some claim risk in the case of movement of cement in so far as rain is concerned, if the cars happened to be in bad order. That is perhaps true also of lime.

In connection with the present log operations under the so-called Cummer scale in Florida we have a type of service [fol. 664] contract in addition to the so-called Carpenter-O'Brien contract, but not in the case of the Brooks-Scanlon Corporation. We have applicable to others and for other parties. We have such a contract with the Wilson Cypress Company for the transportation of logs somewhere over in this same general territory to Palatka; that is in the Perry section to Palatka. We have such a contract also with the Putnam Lumber Company for the transportation of logs from Clara to Milldale, Jacksonville. We have no such contract with the Cummer Cypress Company from Lacooche to Otter Creek. We do not have such a contract with the Cummer Cypress Company for the movement from Otter Creek to Lacooche—not that I know of. It is possible that such a contract may exist and I may not be aware of it (Tes. p. 319). I have not read those contracts, the service contracts, and I must say I don't know just what the terms of them are, except that they are along the general lines of our log train contracts, but whether they have any provisions about repair of equipment and those features I cannot speak now.

As to the manner in which this movement, this Brooks-Scanlon movement, actually occurs, I have never ridden it, but the contract as to the operation of the train I think speaks for itself. As to whether that train, made up of carloads of logs, is delivered to us, ready made up, I can only say that that is the provision of the contract, that that will be done. Now I have not ridden the train, nor watched [fol. 665] its operation, but I assume it is being done in accordance with the terms of the contract—in accordance with the terms of that contract. It is my understanding that it is delivered in solid trains to the shipper at the other end.

It is my understanding that the service rendered to the

Putnam Lumber Company is about the same; as to the Wilson Cypress Company, about the same (Tes. pp. 321-322).

My recollection is that there was a contract between the Cummer Cypress Company and the Atlantic Coast Line Railroad Company with respect to the movement of logs in train load lots from Otter Creek to Lacooche, and if I am mistaken of course it can be corrected, but my further understanding is that contract is not now in existence; as far as I know, we have never had a contract covering that Lacooche movement. I do not know whether the movements [fol. 666] to which I have referred are in the night time or the day time. I do not know what the turnaround is on the equipment. I do not know whether it is 24 hours, 48 hours, or what (Tes. p. 322).

The Atlantic Coast Line Railroad purchased the old Jacksonville & Southwestern in the year 1904, from the Jacksonville & Southwestern Railroad Company, as my recollection goes. I think that was the corporate name of it.

I do not know anything about a Mr. C. W. Chase, who lived in Alachua County about 1903 or 1904, except as he is mentioned in the contract between the Cummer Lumber Company and the Jacksonville & Southwestern R. R. The negotiations for the Carpenter-O'Brien contract were made so far as I know by Mr. R. A. Brand, the vice-president. Our company built track extensions, and other means of transportation, to reach the so-called Carpenter-O'Brien mill site from the tracks of the Atlantic Coast Line Railroad Company at that time from Milldale to Eastport, about four miles. I am not sure whether there are any navigable streams intervening. The Carpenter-O'Brien plant is the terminus of that line (Tes. p. 325) (Tes. p. 325-326). I have no idea of the cost of that improvement.

Mr. Examiner, a few minutes ago I made a statement in reply to a question that in so far as I knew we have no contract for the service of handling logs to Lacoochee for the Cummer Lumber Company. We are advised by Mr. Arthur Cummer that such a contract is in existence, and I therefore desire to change my answer in the affirmative (Tes. p. 326).

[fol. 667] "Mr. Cummer:)

We have a service contract between Otter Creek and Lacoochee with the Atlantic Coast Line Railroad Company, in the name of the Cummer Cypress Company."

The Witness: Referring to my exhibit No. 23, this line of rates is proposed as shown under description C on this exhibit as what we offer as a reasonable scale to apply respectively from north Florida and from south Florida, to Georgia, and it is merely in connection with the consideration that the Commission gives to this case as to our interstate mileage scale now in effect. That reply is stated in words on the caption of the exhibit. The Georgia Commission having asked the Interstate Commerce Commission to prescribe maximum reasonable rates from Florida into Georgia, we are proposing these scales in lieu of the existing scale (Tes. p. 327-328). With respect to yellow pine lumber, as to how far, as a practical proposition, such a scale should extend, it would meet the necessities of the case if the scale should extend to 540 miles. What I mean by the necessities of the case is this, that the longest distance from a Florida point to a Georgia point would be 540 miles. I do not mean to say that we could expect logs to move that far, but in order to cover the entire situation with the scale, it would be necessary to extend it to 540 miles. Now, that remark, of course, is directed to the scale from south Florida, because that extreme distance of 540 miles is from the south Florida section. Exhibit No. 24 has the Pierpont [fol. 668] scale on it, and I am familiar with the circumstances surrounding the movement of logs into Savannah under which that scale was prescribed. Those rates were made for application on yellow pine logs. They were for manufacture into lumber at Savannah. I was not a witness in that case and was not present at the hearings. The line from those points into Savannah over the Southern was main line, single main line mileage into Savannah as distinguished from a branch line. As to whether log trains move the same as ordinary freight I am afraid my answer would not be worth much. I do know whether the presence of log trains on the main line would retard the movement of the fast passenger traffic. In fact, I mentioned yesterday the interference on the passenger tracks by log trains in

the way of faster trains, and for that reason it is always necessary to restrict the parts of the line on which log train operations are permitted, but I understand from your question as to whether a train of general cars moving over the Perry branch to Jacksonville would move faster than a train of logs over the Perry branch to Jacksonville, and that of course, I do not know. That line of the Southern into Savannah over which these rates were prescribed is main line trackage. On my Exhibit 24, the fractions in that scale have become rather irregular. I am speaking of the Pierpont scale. That scale as the record would indicate was established on basis of per car, and under the rules for the disposition of fractions in the general percentage in- [fol. 669] creases, it had the effect of casting one half dollar one way or the other, and when we got a hundred pound rate out of that per car rate, we got a different result, and as a final result the progression in the inbound rates has been very much disturbed (Tes. p. 330). That is one of the main reasons why I have selected the Alabama scale rather than the Pierpont scale. The purpose of the distinction between the south Florida and the north Florida scale to Georgia points is primarily to wipe out the different descriptions that now exist, and also to make a slightly higher rate from south Florida; of course, appreciating the fact that even on the basis proposed very substantial reductions would follow in the rates from north Florida to Georgia. You will note by the comparison that the rates we propose from south Florida are very greatly less than the existing rates from south Florida.

"Q. Yes. From the heading on your exhibit 23 it is not clear whether that line for north Florida was intended to run by way of Palatka or by way of Lake Butler. As I understand you, from the explanation you made to Examiner Brown, you mean the line running through Lake Butler, Burnette Lake, and on the line to Palatka?"

"A. The line runs through Baldwin, Lake Butler, Hainesworth, Burnette Lake, and dips down to include the line to Gainesville, then from Burnette Lake through Alachua and through High Springs. Points on and north of that line are the north Florida points, and points south of that line are the south Florida points, as I have designated them" (Tes. p. 331).

A higher scale would apply from Palatka and the line between Jacksonville and Palatka. As to the fact that the [fol. 670] proposed scales for north and south Florida are so nearly alike, you will notice that for fifty miles the south Florida scale is the same as the present north Florida rate—I am going to be perfectly frank about that and say that when you get down into the lower part of Florida it is not very probable that we are going to be burdened with log traffic, but we have a principle here that is involved as to the general construction of rates on all commodities to and from Florida. Frankly, I don't think it is going to cover any very large movement of logs from south Florida into Georgia. Of course, we have rates in effect today for those long distances, but they are not actually applied on any moving logs. The present Florida to Georgia rates are 16 cents for 450 miles, that is the end of the scale, the Alabama scale 15 cents, and the south Florida scale, 17 cents—on Exhibits 23 and 24—Alabama, 15 cents, but we are not willing to put in the flat Alabama scale, running to 15 cents at 450 miles. We would not like to do that, Mr. Examiner. It is not a question of what the rate is, so far as any movement is concerned, but as I say, we have a principle here that really governs us in making a proposition as to the south Florida rates. Well, we are going to have uniformity on general principles, that is, class and commodity rates in the whole southeastern situation, except in the peninsula of Florida. The Commission has recognized that. It does not make any difference as to the actual movement, and we would prefer that the principle be fol- [fol. 671] lowed rather than just an arbitrary adjustment of rates, realizing that it is not going to cover any actual movement of logs. Our proposed south Florida scale starts at fifty miles, which is the minimum distance between south Florida and the Georgia State line.

Redirect examination.

(By Mr. Carl Davis:)

The average weight of the cars moving under this Cum- [fol. 672] mer scale into Jacksonville on the Jacksonville & Southwestern line could be indicated in the way that I have done. Of course it does not cover the entire movement,

but I have averaged the weights for 983 cars of the logs for both the Brooks-Scanlon Corporation and the Putnam Lumber Company, which produced 60,200 pound per car. As shown in the exhibits that I have filed, the revenue on basis of that weight is $20.47. That movement was from Carbur, to Milldale, and from Perry to Eastport, the average haul for the two movements being 158 miles. This produces a per mile earning of 12 cents. Now there seems to be some misapprehension that some profit accrues to the Atlantic Coast Line Railroad out of their revenues derived from the logs handled on the Florida intrastate scale to Eastport, and there seems to be some impression that the operation of these log trains is very profitable to our company. Of course it is impossible to make freight rates strictly on basis of the cost, because in fact it is practically impossible to establish the exact cost of any transportation service. Nevertheless, we would like to remove any incorrect impression that may exist that there is a very large amount of profit in the operation of these log trains, and while appreciating the fact that it is impossible to show precisely the actual cost, we have asked Mr. White, superintendent of transportation of our company, to make a cost study covering the operation of the Brooks-Scanlon log [fol. 673] trains, and he is the witness who will follow me on the stand.

"Examiner Brown: It will be impossible to conclude the hearing today, and under the circumstances it is apparent that we should postpone the hearing to a day to be hereafter fixed" (Tes. p. 336).

J. Lowell White was thereupon called as a witness and, being first duly sworn, testified as follows:

Direct examination.

(By Mr. Carl Davis:)

My name is J. Lowell White; superintendent of transportation of the Atlantic Coast Line Railroad Company, Wilmington, N. C. My railroad experience covers a period of 23 years beginning in 1903 in the freight auditing de-

partment of the Chicago, Burlington & Quincy. With that road I spent three years mostly in accounting work, both agency and in division superintendent's office. Next for three years I was connected with the president's office of the Wabash Railroad, where my duties included efficiency and cost studies and much figuring with regard to new equipment and the purchases of material and supplies. For four years thereafter I was purchasing and supply agent for the Frisco Lines in Louisiana and Texas, which lines are now a part of the Missouri Pacific system. Another year was spent in the creosoting business at Galveston, Texas (Tes. p. 337).

[fol. 674] In 1914, and for the last 12 years, I have been with the Atlantic Coast Line, first for one year in the president's office, where I had to do with joint line accounts, and thereafter consecutively as assistant to general superintendent of transportation, Wilmington; superintendent at Norfolk, Va.; superintendent transportation of the first division of Rocky Mount, and now, and for the past eight years superintendent transportation at Wilmington, with jurisdiction over the system.

In my work as superintendent transportation, I have had to do with the preparation of cost and efficiency statistics in connection with the general operation. I have had occasion to examine the cost of moving these logs in train loads between Perry and Jacksonville, and I have accumulated data in the form of an approximation that is satisfactory to me at least of the minimum cost of moving these trains. I here offer as exhibit No. 25, consisting of a statement marked item J, which is supported by items lettered A to I, inclusive. On this exhibit I have made as close an approximation of the cost of this service as it is possible to obtain from our records.

For instance, item A, covering the cost of road movement, is based on the actual wages paid train and enginemen on the road for all log trains run in September, run in the Brooks-Scanlon operation between Perry, Carbur and Eastport.

It also includes statement of fuel and supplies and the cost of hostling and turning engines at Moncrief, Jackson-
[fol. 675] ville terminal, round house.

Under item B will be found an estimate of cost for operating the type of yard engine used in service between Mill-

dale and Eastport, Milldale being the terminus of the road operation, from which the logs are transported by yard engine to Eastport where the Brooks-Scanlon mill is located.

The cost units are based on mechanical department monthly cost statements for the third division, which comprises most of the Atlantic Coast Line lines in Florida, and include both road and yard engine costs. The miles run is based on six miles per hour, which is accepted by the Interstate Commerce Commission as the average hourly performance by yard engines. The engine cost of $14,275, on which interest and depreciation are based is the cost of the engine in 1901. The same type of engine today would cost from $24,000 to $25,000.

The time of each trip is based on the time used by yard engines in handling logs at Eastport and in hauling them from Milldale to Eastport; including return movement of empties. Six hours is what the superintendent of terminals of the Atlantic Coast Line at Jacksonville asserts is the time necessary for this work.

Item C is based on the fact that it takes an assignment of five locomotives in a pool to perform the Brooks-Scanlon and Putnam log train service.

As shown by item D, the relation of car lines in these two [fol. 676] services is as 32.4 per cent and 67.6 per cent; the latter figure being the percentage chargeable to the Brooks-Scanlon trains. That figure, therefore, is used as the proportion of the total interest and depreciation on five locomotives which should be assigned to the Brooks-Scanlon service. The interest and depreciation item on cars is self-explanatory.

Item E, maintenance of equipment locomotives, is based on train miles run rather than car miles for the reason that car—that our cost figures for locomotive repairs are based on engine or train miles rather than on a car mile basis; but the amount charged to the Brooks-Scanlon service is figured on the basis of the Brooks-Scanlon proportion of car miles to total car miles run in the Brooks-Scanlon and Putnam services.

Item F shows the amount to be paid by the railroad for use of 75 Brooks-Scanlon cars in the month of September.

Item G, maintenance of roadway, assumes that were these

log trains, which perform some 60 per cent of the car miles run on the line between Jacksonville and Perry, discontinued, that it would be possible to reduce section forces one man per section, of about eight miles each, in this territory, and that there would be an equal saving in material, the total labor and material amounting to $104 per section.

Item H, maintenance of equipment, covers the actual amount paid for maintaining the cars assigned to the Brooks-Scanlon service for 12 months, with a proportional [fol. 677] amount assigned to the month of September. Also, there is added the cost of repairmen at Eastport and Carbur, and half the salary of a repairman at Perry, which men are employed solely for the purpose of looking after the cars assigned to the Brooks-Scanlon service. From the total is deducted the average amount billed against the Brooks-Scanlon Corporation for the maintenance of their cars one month.

Item I shows first, the total proportion of Atlantic Coast Line operating expenses of $47,265,226, not including taxes and equipment rentals, for the first eight months of 1926, which, under the I. C. C. rulings, are classified as chargeable to freight. This amount, $33,394,694, has been divided between direct and indirect expenses. These terms are used merely for the purpose of this cost study, to differentiate between those accounts in which direct charges have been made to this service on this statement and those accounts for which no amount is included in the figures shown on the statement.

Under "direct" are also included accounts which cannot have any relation to the cost of this service, as No. 408, floating equipment operation; No. 267, paving, and other similar items.

Under the heading "indirect" are included supervision, account No. 371; dispatching of trains, account No. 372, and similar items, while under "direct" 55 are included items such as yard conductors and brakemen, account No. 378, and fuel for locomotives, accounts Nos. 382 and 394.

[fol. 678] In preparing the summary shown under item J, the ratio of the indirect to the direct expense of 28.5 is used as an arbitrary figure to cover the proportion of all indirect expenses which should be added to the direct cost to cover supervision and other indirect items.

In making up the statement shown on item J, after totalling the first five items shown there has been deducted 3.8 per cent of that total as a proper subtraction because of other traffic than logs hauled in the Brooks-Scanlon log trains during the month of September. The items below that subtraction are properly shown without deduction for the reason that the amounts indicated are direct charges to the equipment used in the Brooks-Scanlon and no other service.

I use a cost price on the yard engines because the present price is greater, and I used the cost price as to the road engines. The present price is much greater than the cost (Tes. p. 342). It is the judgment of the chief engineer of the Atlantic Coast Line railroad that if these log trains were discontinued the reduction of the section forces would be by one man only. This was furnished to me for purpose of use in this study. I have used nothing in the way of cost to cover either taxes or a return on the value of the railroad which is used in performing the service, the value of the right of way, and the roadbed. The study shows a cost per car of $17.27 based on the number of cars handled for the Brooks-Scanlon Cor- [fol. 679] poration in September, 1926. That may properly be compared with the revenue derived from these cars as testified to by Mr. Perrin as amounting to twenty dollars and some odd cents, as an approximation (Tes. p. 343).

(Thereupon defendant's Exhibit No. 25, witness White, was received in evidence.)

"Q. (By Examiner Hillyer, to Defendant's Counsel:) Mr. Davis, to make the record clear, will you give the Perrin exhibit number to hook up with this exhibit?

"Mr. Davis: In the last statement of Mr. Perrin, he said he had averaged some 800 or 900 cars, and found that the weight of the car was some 60,200 pounds. The contract provides that the car shall be paid for on basis of 50,000 pounds, with excess in proportion. Applying that excess of some 10,200 pounds, would bring the revenue derived from that car on the freight rate that they paid up to $20.47. That was at the end of Mr. Perrin's testimony, practically. That figure bears no relation to the revenue shown on Exhibit 22" (Tes. p. 344).

Cross-examination.

(By Mr. Cotterill:)

"Q. Mr. White, included within your computations you have assigned certain items as if they were cost items, under the heading of interest. Will you please indicate the accounting theory in which you are able to refer as an item of cost, such an item as you described as interest?"

"A. I am not here to testify as an accountant, as a certi-[fol. 680] fied public accountant, Mr. Cotterill. I am here to testify as to what it actually costs the railroad. Now, I cannot go into theoretical accounting propositions with you."

"Q. Would you say then, that you are not able of your own accord, to indicate any theory by which it may be thought to be or not to be a proper thing to do to set up an interest item as if it were a cost? I had the impression that you qualified yourself as having made what you thought was a cost study, and that in that sense you take responsibility for the inclusion in your figures of an item under the heading of interest."

"A. Well, interest is something which has to be paid by the railroad; therefore it is a cost to this service."

I do not think that any provision is made in the Interstate Commerce Commission classification of operating expenses for the item of interest as if it were an operating expense. The item our company paid to the Brooks-Scanlon Company by way of car hire or mileage allowance is not included by the Commission's classification under operating expenses. It is included as a cost to the railroad, but not under operation. It is a sum of money which the railroad pays by way of choice rather than to provide the equipment itself, rather than to make its own capital outlay, it prefers to pay somebody else something in the nature of rental. As to what suggested to my mind to apply the car mile formula in one instance, rather than the train mile [fol. 681] formula which I have used in other instances, it is because there might be an equal number of trains run for two companies, and yet one train might have a great many more cars in it than another. The expense to the carrier per unit of traffic would be different so far as those items of expenses are concerned (Tes. p. 346). Not only in the unit

of traffic, but in the aggregate, the wear and tear on the rails would be greater, the wear and tear on the railroad. If a given locomotive of a certain rating is used to haul today a train of 40 cars, and tomorrow a train of 50 cars, that locomotive cost is not exactly the same irrespective of the number of cars in the train, no, sir. I would not undertake to say that without knowing all the conditions. As to whether the difference in locomotive cost in the case of two trains, one with 30 or 40 cars, and the other with 50 cars, would be in the proportion that 30 or 40 or 50 would bear to 100, that would altogether depend on the conditions. One train might be delayed and another might not be delayed. The length of the train might cause the delay in some cases. That is not an accounting assumption, that is an operating assumption. I have the underlying data which is either on the exhibit or is not on the exhibit giving the respective train miles. It is not on that exhibit. The representative train miles is on the exhibit. It is in item 3, train mileage by log trains in September. Maintenance of equipment, locomotves, train mileage by log trains in September, [fol. 682] Putnam, 5,019; Brooks-Scanlon, 9,890.

"Q. Now, we observe then, by comparisons of items D and E, that the car mile ratio would be 67.6 per cent for the Brooks-Scanlon Company. What are those equations as to the train mileage, have you the computation?

"A. Well, the ratio of the Brooks-Scanlon to the total would be 70 something per cent. I haven't quite finished it. It is a somewhat higher ratio than the car mile ratio."

In respect to this matter of the switching locomotives, I have assumed six miles per hour, and in that way reached approximate switching cost average. Then our only use in this case of the statistical data is the assumption that six miles is the switching locomotive mileage per hour, yes, sir. I went to Jacksonville and discussed very carefully with our superintendent of terminals there as to the time it takes an engine to do that work, as I stated in my evidence. He told me it would take six hours to take the cars from Milldale to Eastport to do the necessary work at each point, and bring the cars back again, per train of forty or fifty cars. I think it is roughly about four miles. I cannot give you that from my own knowledge. I did not investi-

gate this myself by a time study. I have no certain knowledge as to what that distance is but I began at Milldale. From Milldale to Eastport it is my understanding that that [fol. 683] distance is approximately four miles (Tes. p. 350). As to what that locomotive does after it has discharged its functions at Eastport, I didn't go into the detail of that. I simply went into the total time used by that engine. You understand all these cars have to be weighed. After the locomotive has completed the measure of switching service as involved, and has disconnected completely and finally from those cars, I do not know what becomes of the locomotive.

"Q. Do you know whether or not that locomotive continues beyond Eastport, and if not beyond then backwards, and before reaching its starting point performs any switching service of any kind for another company?"

"A. I understand not, or if it does, it is included in its day's work, and the six hours time is the time spent in doing the work for the Brooks-Scaulon day run. A switch engine day is eight hours, and that engine might go out there and do two hours work, if there are other spurs out there, which I am not advised about" (Tes. p. 351).

I have not shown any separation as between passenger and freight service. That is done by the Interstate Commerce Commission ruling, and our accounting department. This item of $33,000,000 is freight exclusively.

I will be very glad to make a complete written statement [fol. 684] of the method of determining this cost and the allocation used and present that at the next hearing.

As to whether property taxes in the State of Florida are divided as between sections of our line, I cannot answer that question. I know nothing about taxes or the method of distribution. I did not have available the ordinary formula for the apportionment of taxes to the particular description of traffic. It may have been available but I did not avail myself of it. I do not recall that I have ever seen any railroad cost studies in which an apportionment of taxes was made. If I had included an item here for taxes I think it would not be inconsequential, from the amount of the taxes.

I will include in the statement of the explanation of the formula the bearing which taxes might have on some theoretical allocation.

To the question whether the taxes assessed by the State of Florida on the property of the Atlantic Coast Line R. R. would be just the same if we ceased to run these trains at all, except as to the equipment employed in the handling those trains, my answer would be that as long as those trains are run, they have got to bear their proportion of the expense, and taxes are one of the expenses.

"Exam. Hillyer: Mr. White, when you are making that explanation, will you note that the important figure here, estimated cost per car, $17.27, does not appear to be ascertainable from the summary? In other words, I don't know where the figure comes from.

"The Witness: Simply the total number of cars at the top divided into the $23,678.

Exam. Hillyer: And if that is what it is supposed to be, then it is incorrect, I think. I think something was added or deducted before you made the calculation, because it does not come out correctly.

The Witness: I will have that corrected if there is an error.

Exam. Hillyer: In view of the offer to make this detailed [fol. 685] explanation of the cost exhibit, I assume that further questions will be reserved until the adjourned hearing" (Tes. p. 358).

The month of September was selected for this cost study simply because it was a recent month when everybody's thought would be fresh in the minds of the operating people. September is one of the least expensive months for this operation, because during the winter time when our tourist business is on these log trains are delayed, and the wage cost runs up very much higher.

[fol. 686] The cost study could be made for a period of a year and it would not be particularly a very difficult job, but it would take some more time.

I am familiar in a general way only with the operation conditions surrounding the Wilson Cypress Company movement at Palatka. Only on the map am I familiar with that line of connection between Milldale and Eastport.

There are bridges over navigable streams but I can't say how many. I have no idea what the cost of that extension was.

I can make the analysis which has been suggested and furnish it to the Commission within the next few days.

Exam. Brown: Pursuant to agreement, this hearing will be adjourned to resume at Jacksonville, Florida, Mason Hotel, on January 5, 1927.

Mr. Cassidy: May it please the Examiners, speaking for the Jacksonville Traffic Bureau and for all of the intervenors who signed the motion to dismiss, previously entered in the record, we respectfully submit at this time that reserving all our rights to have the case disposed of on our original motion as made, that is on the evidence submitted since that motion was made, we wish to renew at this time our motion to dismiss. We propose within a reasonable time to ask permission of the Commission to argue the question of the disposal of this case on our motion to dismiss.

Exam. Brown: Mr. White, will you submit the information requested from you within 10 days, and serve a copy of that information upon all parties of record to this proceeding who are entitled to the same?

Mr. White: Yes, sir, through our attorney.

Mr. Fred Davis: Mr. Examiners, we would like to have it understood that the Railroad Commission of Florida joins [fol. 687] in the renewal of the motion to dismiss previously mentioned by Mr. Cassidy.

Jacksonville, Florida, January 18, 1927.—10 o'clock a. m.

Before R. N. Brown, Attorney, Examiner

Met pursuant to notice.

"Examiner Brown: Pursuant to adjournment from October 22, 1926, at Valdosta, Georgia, I call for further hearing this morning, Docket No. 18364, Georgia Public Service Commission v. Atlantic Coast Line Railroad Company.

"I will call for new appearances at this time, that is, those who did not file an appearance at the Valdosta hearing. Are there any such appearances?"

(Thereupon the following appearances were filed:

H. A. Jackson, Valdosta, Ga., for Jackson Bros. Lumber Co.; Dr. C. C. Giddens, Valdosta, Ga., for Bray Lumber Co.; J. E. Davies, Climax, Ga., for himself; Frank W. Gwathmey, Washington, D. C., for Seaboard Air Line Ry., Central of Georgia Railway, Southern Railway and Georgia, Southern & Florida Railway, interveners, in lieu of Henry Thurtell, who appeared for these intervenors at the Valdosta hearing; W. E. Kay, R. C. Osborne, and Carl H. Davis, for defendant Atlatnic Coast Line; J. S. Farish, who appeared at the Valdosta hearing in behalf of the Roofer Manufacturers Club of Georgia, stated that his authorization to appear in behalf of that club had been rescinded.)

[fol. 688] Examiner Brown: Now, Mr. Perry, I understand you have further evidence to submit at this time. You may proceed.

Mr. Cotterill: The complainant in this case on the record announced that it closed its case.

(There ensued a discussion of complainant's right to introduce additional evidence.)

"Examiner Brown: I believe that every party in this hearing has had notice of the fact that further evidence on direct is to be submitted by complainant; it is not taking them by surprise; they are aware of that circumstance. In view of that fact we will proceed with this witness."

"Mr. Cotterill: May we have the record to indicate our attitude, Your Honor, on the question of surprise? It is correct to say that we were not surprised that the privilege of submitting further evidence has been accorded."

"Mr. Cotterill: We would like the record to definitely show a specific exception to the allowance of the privilege of the further testimony."

C. C. Giddens was thereupon called as a witness and, having been duly sworn, testified as follows:

Direct examination.

(By Mr. Perry:)

Doctor C. C. Giddens, Valdosta, Georgia. I am interested in the manufacture of log at Valdosta, Ga., into va-

rious forms of lumber, and come into direct competition [fol. 689] with Florida manufacturers of logs. The demand for logs for my mill carries me into Florida for distances up to 170 miles on the Atlantic Coast Line Railroad (Tes. p. 374). I cannot draw logs from the distance and on the railroad as just referred to at the present time on account of the rates (Tes. p. 374). The rates from these points in Florida to Valdosta, Georgia, are higher than I can afford to pay. If the rates complained of in this case, maintained by the Atlantic Coast Line Railroad between points in Florida up to 170 miles, were to be extended to Valdosta, Georgia, that would relieve this condition that prohibits me from drawing logs from Florida at this time. I had in mind one or more locations of logs that I could buy if the rates of which I complain were different. That is, if I were placed on an equal basis with Florida manufacturers (Tes. p. 375).

Cross-examination.

(By Mr. Cotterill:)

My saw mill at Valdosta has been in business fourteen years under the name of J. N. Bray & Company. It is a circular mill with a normal capacity of thirty to thirty-five thousand feet in eleven hours. We make dimension lumber and we also make dressed stock and sell it in different places. Our largest customer is the Norfolk & Western Railroad (Tes. p. 376). We ship some to the east and not any in the west. We sell some in the east, some in Georgia, some in the Carolinas, some in Ohio. The mill was there in Valdosta before I became a member of the firm. When I became member the logs were obtained for that mill right [fol. 690] around Valdosta, from three to fifteen miles. We have not cut all of our logs in the neighborhood of Valdosta yet. We are getting some stuff in there (Tes. p. 377). They are mostly cut out and what we have left is mostly small timber, some scrub growth. We don't speak of it as scrub; we speak of it as low grade.

(By Mr. Cotterill:)

"Q. Can you indicate approximately what would be a 170 miles point in Florida from Valdosta on the Atlantic Coast Line Railroad?"

(Objection stated and argued.)

"Examiner Brown: It seems to me Mr. Cotterill's cross-examination is proper; but the witness need not disclose any information which he thinks will be detrimental to his business or disclose any information to any of his competitors."

"A. There is timber that I can buy within 170 miles of Valdosta on the Atlantic Coast Line Railroad that I want to buy and expect to buy if we can get a rate."

"Q. I am asking you, Mr. Giddens, to tell us about where on the Atlantic Coast Line Railroad would 170 miles from Valdosta bring you."

"A. That is an unfair question, because he wants to attempt to show where this timber is."

If you will get a map I will show you a point 170 miles, or practically so, in Florida. But I can't indicate to you where this timber is I expect to buy; it is an unfair thing. [fol. 691] I would like to make this statement in regard to this very question that is being asked now at this hearing. At the hearing that you held in Valdosta, the same question was asked Mr. Jackson, and he and I were figuring on a tract of timber. I did not know at the time that he had been figuring on it. And I would say in just a few days after the hearing that that tract of timber was sold. I know something about it. The location of that timber was revealed by Mr. Jackson under the same circumstances as obtain here. And the lumber was bought in the next two weeks (Tes. p. 380).

As to whether I would indicate approximately where, as I understand it, 170-mile range of distance would fall, starting at Valdosta and going over the Atlantic Coast Line either through Dupont or through Thomasville. I can only say this: that we would want to use the Dupont line. I don't know where 170 miles via that route would bring me, because I don't know exactly the distances. As to whether it would bring me into Suwanee County, if I would answer that you would be within a close range of the proposition I am now figuring on; I don't think it would be fair. I can tell from memory at least approximately where 170 miles from Valdosta falls, yes, but I am not going to do it because that is the very thing I am fighting now (Tes. p.

381). Your Honor, if I answer it that way, I answer his former question where this timber is located. In other words, to answer Mr. Cotterill's question would disclose that information. I can load this timber on the Coast Line. [fol. 692] It is nearer the Coast Line than it is to some other railroad. It is saw mill timber, the same class of timber that I am getting. As to whether I am now getting what I call low grade stuff, I am getting some of both. If I give you the size of the tract it will certainly enable someone else to locate the timber. I can say this, it is average sized timber, but I would not care to answer as to the size of the tract. There is not any secrecy or mystery about timber any place in the State of Florida. As to whether or not everybody in the saw mill business in the State of Florida knows where every foot of merchantable timber in the State of Florida is located, I couldn't answer; I don't know. I would have to answer that in this way. I am buying tracts of timber here and all about in Florida that I didn't really know about. These real estate men come to me, and I go and look them up, and I buy timber that I did not really know was there.

The logs that are drawn from Georgia into Valdosta are shipped from 15 to a hundred miles. As to whether I have ever tried to ship logs 170 miles from any place, I have never bought any, I don't think, 170 miles; no, sir.

"Q. Have you ever heard of anybody doing it except at a tidewater location?"

"A. Yes, I have."

"Q. Where and when?"

"A. I think that my friends up at Macon are shipping logs 170 miles. This is hardwood logs" (Tes. p. 384).

[fol. 693] As to whether I have ever heard of pine logs moving 170 miles by railroad except at tidewater, that is a question I don't know. I think the people at Doctortown have been shipping 170 miles. I know they have shipped below my territory; I don't know the exact distance, but I know it is a long ways; a rather small part of the shipment is up to 100 miles, and most of it is still within 100 miles from Georgia and Florida. My haul will run, as I said, from fifteen to a hundred miles.

"Q. Granting that it will, most of it does not come 100 miles?"

"A. Well, I take in a lot of stuff."

"Q. Short hauls?"

"A. No, I am shipping as much as I am dragging in."

That part of our logs originating in Georgia that we ship in by railroad to Valdosta, the railroad distance is, I would say, forty to fifty miles, on an average, as near as I could come to it. As to whether I am totally inexperienced in shipping logs on an average 150 to 170 miles, I have never attempted to do that up to this time, but I am going to have to do that if I keep going; other people are doing it. You have other people in Florida shipping 170 miles or more at Jacksonville.

"Q. Now, have you ever heard in your entire experience of anybody logging by main line service to an interior saw mill from 150 to as much as 170 miles to a saw mill at the rail?"

[fol. 694] "A. I have just referred you to other people."

"Q. To people at Doctortown."

As to whether, when we did ship from Georgia origins to Valdosta as much as 100 miles, it was a satisfactory thing to do, it is a satisfactory thing to ship logs from any point where you can get a rate that is reasonable. I have never lost any money saw milling; I may do it some time. Although ours is a small mill, we find it necessary to have a pretty steady flow of logs to keep in continuous and steady operation. If the supply of logs is not regular, it causes extra costs—you have to shut down and start up again.

"Q. Now you said that you cannot ship logs from Florida to Georgia on account of the rate. What you mean then, is that the rate, in your view, is too high; is that true?—from Florida to Georgia?

"A. You mean the rate to us?

"Q. Yes, to Valdosta.

"A. Well, it is considerably higher than our competitors are enjoying in the State of Florida."

Whether that rate from Florida to Valdosta is too high is for the Interstate Commerce Commission to decide.

From the standpoint of our ability to ship from Florida to Georgia, and whether it is because the rate is high that we cannot ship, I will answer that by saying that I cannot ship those logs, competing with the other fellow who has a rate twice as low as mine.

"Q. Granting all of that, can you ship logs over 150 miles to Valdosta, originating in Florida, under the present rate from Florida to Georgia, if there were not any [fol. 695] sawmills at Jacksonville at all.

"A. That would depend entirely on market conditions."

We have to ship our logs from the point where we can get our logs the cheapest and get the cheapest rates, and when they give out we have to get them from other points, even if they cost us more, if we are to keep in business (Tes. p. 389).

If the Jacksonville mills were to burn or were completely destroyed and, therefore, if we would not have any competitors that had any better rate, we would be able, if we could obtain them, to commercially transport logs from Florida to Valdosta, Georgia, under the present freight rates from Florida to Georgia. There are other mills in Florida besides those in Jacksonville on the Atlantic Coast Line.

"Q. Well, take any mill on the Atlantic Coast Line, and assume that all of the mills on the Atlantic Coast Line Railroad in Florida were to burn or be destroyed, and, therefore, nobody were shipping under the so-called Cummer low-rate scale in Florida; would you then be in position, or at least, do you think you would be in position to purchase timber lands in the State of Florida and ship the timber by railroad to Valdosta, a distance of one hundred and fifty miles or more?

"A. If I had no competitors in Florida—if I understand your question—that was enjoying a better rate.

"Q. Enjoying the Cummer rate on the Atlantic Coast Line Railroad?

"A. Yes, sir, I believe I would, yes, sir.

"Q. Now, why do you believe you would?

"A. Because I would certainly be in position to do as well as my competitor, and if he had to draw his logs from

there and I had to draw mine from there, and we were paying the same rate, certainly I ought to be able to put it on the market at the same rate."

"Q. I see your point of view. Then your thought is that you would be able to draw logs from Florida to Georgia un- [fol. 696] der the present interstate rate from Florida to Georgia, for 170 miles, because, you say, a mill at Jacksonville is drawing 170 miles within Florida under a lower rate; is that your process of reasoning?"

No, I said it was unfair to me and that I couldn't compete with a competitor in Florida who was hauling their logs from 150 to 170 miles over the Atlantic Coast Line Railroad, selling to the same customer that I am selling to, and enjoying a rate about twice as low as the rate I am paying; if you do away with that and place him on the same basis that I am—

[fol.697] "Q. Well, he would be out of the way entirely; it would not be a question of putting him on the same basis, he just disappears; in that event would you undertake to market lumber at Valdosta made of logs brought 150 miles or more under the present interstate rates, not the Cummer scale?

"A. Well, that would depend on the conditions."

As to the proposition that either those concerns go out of business or that the rate on logs which they pay to Jacksonville is increased and made as high as the rate from Florida to Georgia, then, in fact, I would ship logs from the State of Florida to Valdosta, a distance of 150 miles. I would, yes, sir. Because one of the strongest competitors, I cannot say just one, but some of the strongest competitors that I have that are in the railroad business is from Jacksonville; I don't know whether he is here this morning or not. And they are getting their logs from the Atlantic Coast Line Railroad and selling to the same customer that I am selling and have been selling to for fourteen years (Tes. p. 393). I don't own any timber in Florida. I am not engaged in shipping logs from Florida to Georgia at all. I couldn't give you figures offhand of the cost of transporting under the present interstate rates

from Florida to Valdosta, but we have them tabulated at the office. I don't know from memory what our transportation cost would be on logs from Florida to Georgia, I could not answer the whole thing, but I can refer to the rates which we have. The rates speak for themselves. [fol. 698] I have computed what those transportation costs would be from the location I have in mind. I couldn't give you the rate offhand. Mr. Jackson, who testified in Valdosta, is my competitor. I could not remember those different rates from sections and points.

I said in my direct testimony that the freight rate from Florida to Georgia was higher than we could afford to pay, and I do not take that back. That was based on your hypothesis that I was competing with Florida mills that were enjoying a much better rate. I can afford to pay a rate as high as now prevails from Florida to Valdosta, Georgia, if my Florida competitor has no lower rate on logs in Florida. I wouldn't confine it to Jacksonville.

"Q. I want to know your intention, when you speak of your Florida competitors in the sense that you just did, were you limiting your answer to the Florida competitors on the Atlantic Coast Line Railroad?"

"A. I presume so."

"Q. You 'presume' that was your intention?"

"A. I presume they were the ones that were getting this lower rate."

"Q. At least in your own mind they were the ones that you were thinking of?"

"A. Yes, that is it."

As to the capacity of our operations, we have another mill at Broxton, Georgia. Broxtan is about 65 miles above Valdosta on the Georgia and Florida. We do not ship logs in there from Florida. That mill last year cut something over 9,000,000 feet of lumber, pine and hardwood; the kind of hardwood that we ship to this Norfolk & Western job. We ship from that point (Tes. p. 398). As to where we get our logs for that mill, I am not relieved by telling you. I buy them, in Georgia, on any line of railroad that I can get the logs on (Tes. p. 399). As a [fol. 699] matter of fact, I get them over the Georgia & Florida. That railroad is not directly or indirectly inter-

ested in the mill. I have shipped logs to that mill 125 miles—approximately so. I had one logging camp that I shipped from a hundred and twenty-five miles. This is not an isolated experience. I pay the Georgia intrastate log rates at that Broxton mill (Tes. p. 400-401). It is not so large a camp and it is not so small. It is a tract of approximately three or four million feet of stuff. It is not nearly cut. We have shut our mill down at Broxton and are dismantling it and moving on the Coast Line, because he had cut out all the available timber. This particular camp I speak of is within 48 miles of Valdosta.

As to why I would be embarrassed by responding to the question where is this tract of timber in Florida that we think we could buy, I can answer that in this way. You realize that there is some fight on between the Florida mills and the Georgia mills with regard to this rate; and it is perfectly natural for the Florida operators to buy if possible—and they will do it—the available timber that is adjacent to this place, and if they realized I thought we were going to get a rate that would enable us to handle this stuff, certainly they would go in there and pick up this stuff just as fast as they could. I guess that timber has been there for many years. I don't know just how long the fight has been on (Tes. p. 403). My embarrassment in [fol. 700] disclosing its location is the apprehension that the intervenors in this case would buy it to prevent me from using it. I would do the same thing; I certainly would.

The Norfolk & Western Railroad or any of its officials are not interested in my company (Tes. p. 404).

This Epinger & Russell tract of 190,000,000 feet which has been lately sold is not the one that I have been speaking of. I understand it has been sold. I could not tell you who bought it.

"Q. Did you assume that they had and it was with the object in view of defeating this case? Was that your reason for describing the situation as you did?

"A. Well, I don't think I would like to answer that question in that way.

"Q. You left the inference possibly you thought that some intervenor in this case had taken advantage of a pre-

vious witness and had gone out and acquired a rather extensive tract since the Valdosta hearing, and you go farther and say that you don't want to make the same mistake by disclosing the location of that lumber tract that you have in mind?"

"A. I would not like to answer that question. I don't think it is fair to me. That is a personal question.

"Q. Do you think your insinuation was fair to us?

"A. Yes, sir.

"Q. Well, have you any information at all, Mr. Giddens, that would lead you to believe that any of the intervenors in this case acquired this Epinger & Russell tract since [fol. 701] the Valdosta hearing?

"A. I don't want to answer it because there is a party that bought it, but I don't know. I have heard, but I really couldn't tell you now.

"Q. Do you mean to infer or leave the impression that anybody in this case has bought this tract?

"A. Well, I answered your question (Tes. pp. 405, 406). I have personally examined that tract.

"Q. Have you had a quotation as to price?

"A. Well, I don't think that ought to be asked. I know what they want for it. I will not disclose how much" (Tes. p. 407).

"Mr. Cotterill: Now, if your Honor please, we move to exclude the entire testimony of this witness on the point that he is not now engaged in the shipment of logs in interstate commerce, and he says he would engage in interstate commerce if he had a rate of a certain description or rate adjustment and refuses to describe the location where is located timber which he says he could acquire. His refusal to answer that question disqualifies the witness" (Tes. pp. 407, 408). (Testimony not excluded.)

(The Witness:) The mill at Doctortown is on the Ockmulgee River. I think this is navigable at the point at which the mill is operated; they operate small boats of low tonnage. I could not answer if the principal cut at that mill is hardwood. I have sold them pine myself, but I don't know how much hardwood and how much pine [fol. 702] they cut. I could not answer that. If it is

testified to that this was principally a hardwood mill I would not be prepared to deny it. I don't know. The Jacksonville mills are not obnoxious competitors. We are good friends personally. I would not like to answer who is the particular competitors. I desire not to answer the question (Tes. p. 409).

"Examiner Brown: The witness need not disclose the name of that competitor unless he wishes to.

"Mr. Adair: Will your Honor note our exception to that?

"Examiner Brown: Surely. The record will so show."

(The Witness:) The Alabama mills compete with us, I guess, and I guess they sell lumber. I can't say directly if they sell lumber in our markets. I don't keep up with the Alabama mills as to where they sell their stuff. I don't keep up altogether with the markets where they buy their stuff. I know some of the places from which they buy (Tes. p. 410). I suppose Alabama competes with the market in which we sell our lumber. Other Georgia mills likewise compete in that territory, I guess. I could not tell you positively if the South Carolina mills also compete in that territory. That is matter of business record. It shows as to where they sell their stuff, and I couldn't answer for the South Carolina mills. I suppose there is lumber in South Carolina and I suppose they sell in competition with the mills that are there. As to whether we ever encounter the South Carolina mills in connection with our Virginia [fol. 703] operations and our operations in the East, I can't tell you more than one or two of the contractors of the Norfolk & Western Railroad. The Norfolk & Western is not directly or indirectly interested in any timber owned by my company (Tes. p. 411). I did cut some hardwood at Broxton. I don't cut any at Valdosta. The 125 mile haul that I mentioned was pine, with come cypress in it; mostly pine, and no hardwood other than cypress. Our annual capacity at Valdosta you can figure as 30,000 feet. We are not cutting what would be my normal capacity. We are cutting approximately 6,000,000 feet a year there, but we are not running at a normal capacity (Tes. p. 412). We have been cutting 6,000,000 feet a year the past few years, approximately so, without referring to my daily reports or my annual reports.

Redirect examination.

"Q. (By Mr. Price:) Mr. Giddens, in answer to Mr. Cotterill's question just a moment ago you stated that if all of the mills in Florida were eliminated, and thereby eliminated this Florida rate, that you would then be in position to use the present interstate rate in securing logs from Florida. Would that be due to the fact that you would then be in position to buy these logs in Florida because you would have no competitive buyers?

"A. That is true, sir (Tes. p. 413).

[fol. 704] "Mr. Cotterill: We make the motion to exclude that testimony as to the location of the timber in its entirety by reason of his failure to answer the question as to where timber is, its kind, and its quantity; and in support of that motion we should like to have the privilege of complete argument.

"Examiner Brown: We will have this argument on the record.

"Mr. Cotterill: Other counsel will ask a ruling to strike that part of the testimony of the witness also in which he [fol. 705] refers to competition with some particular concern in Jacksonville, going to the refusal of the witness to testify as to the name of that concern."

(Thereupon argument ensued on the objection; Tes. p. 415 to 422, incl.)

"Examiner Brown: The Examiner's ruling is that the evidence will be allowed to stand. The weight to be given the testimony is of course a matter to be decided by the Interstate Commerce Commission. This ruling will apply to future witnesses which Mr. Perry may produce.

"Mr. Cotterill: Now if your Honor please, it is more than a perfunctory matter in asking that the record show an exception because, as I have indicated, we can proceed under the law, it may be possible to make an adequate defense to the case, at least it is difficult to do so; I won't say not possible—without the privilege of cross-examination of the witness on the points that have been discussed" (Tes. p. 422).

("By Mr. Price:)

"Q. Dr. Giddens, as long as the present rates on logs in Florida on the Atlantic Coast Line remain in effect, and

the present interstate rates from Florida points to Valdosta is in effect, are you prevented from going into Florida on the line of the Atlantic Coast Line Railroad and purchasing logs, shipping them to Valdosta, and manufacturing them into lumber?

"A. Yes, sir."

(Witness excused.)

[fol. 706] J. E. Davis was thereupon called as a witness and, having been duly sworn, testified as follows:

Direct examination.

(By Mr. Perry:)

My name is J. E. Davis; Climax, Georgia; engaged in the manufacture of lumber at Climax, Georgia. And I find it desirable to acquire logs in the State of Florida. Yes, I like to buy logs in Florida. As I say, I cannot buy logs in Florida now and ship them to Climax and manufacture them into lumber on as profitable a basis as compared with my competitor, no. I am in the lumber business at Climax, that is, the pine business—cutting some hardwood. I have an idea of extending my business, to put one mill, at least, on hardwood. I had some parties in Florida to come to me to offer to sell me hardwood timber standing, or hardwood timber loaded on cars. After investigating the rates which existed to Florida points, or here in particular as compared with my place, I find such a difference that I will have to abandon the idea or get some relief somewhere (Tes. p. 424). The location of this timber is within 170 miles of Climax in the State of Florida on the Atlantic Coast Line Railroad. If the intrastate rates are as now applied on the Atlantic Coast Line Railroad in Florida between points in Florida, and if the same scales of rates were to be extended interstate between points in Florida and points in Georgia, or to Climax, Ga., I would then be in a position to buy certain grades of logs in Florida, yes, and the reason I do not buy them now is because of the low rate in Florida as compared to the high rate between points [fol. 707] in Florida and points in Georgia; yes (Tes. p. 425).